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ITS CONSTITUTION AND LAWS

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° IOWA

ITS CONSTITUTION AND LAWS

BY

S. M. WEAVER

Judge XI. Judicial District, Iowa

MAYNARD, MERRILL, & CO.

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CONTENTS

	PAGE
INTRODUCTION	8
CHAPTER	
I. The Constitution	6
II. Iowa in History	36
III. Development of the Constitution	38
IV. Relation of the State and Nation	40
V. Constitution aided by Statutes	41
VI. Personal Rights	42
VII. Right of Suffrage	53
VIII. Distribution of Powers	57
IX. Legislative Department	57
X. Executive Department	67
XI. Non-elective State Officers	75
XII. State Institutions	78
XIII. Judicial Department	79
XIV. The State Militia	84
XV. State Debts	85
XVI. Corporations	87
XVII. Public Education	90
XVIII. Constitutional Amendments	93
XIX. Miscellaneous Provisions	95
XX. Counties and County Government	98
XXI. Townships and Township Government	103
XXII. Cities and Towns	105
XXIII. School Districts	110
XXIV. Taxation	113

INTRODUCTION

Order of Study—The natural order of inquiry into the government of one of the United States begins with its Constitution. In harmony with this thought we devote the first chapter of the following study of Iowa to the text of its fundamental law. We suggest, however, that at the outset the pupil be not required to do more than carefully read this text, and that the more minute examination of its provisions be taken up in connection with the subsequent chapters in which they are re-stated and explained in detail.

Definitions—It cannot be too strongly urged upon teachers and pupils that they do not leave any topic which is discussed in this little volume until the meaning of the language employed has been thoroughly mastered. While careful effort has been made to state rules and principles in plain and ordinary terms, it has been impossible to avoid always the use of words and phrases peculiar to law books and writings.

The Constitution also contains many terms not at first readily understood by the non-professional reader. In most instances of this kind we have given definitions and explanations which will enable the young person of ordinary intelligence to grasp the idea sought to be con-

veyed. Lack of space has prevented other definitions which could have been given with profit; but the diligent student can be relied upon to consult the dictionary and other available works of reference, whenever he finds himself in doubt upon a question of interpretation.

Equivalent Terms—In the following chapters the words “elector” and “voter” have been used as having the same meaning. Laws enacted by the Legislature of the State or by the Congress of the United States are spoken of as “acts,” “statutes,” “statutory laws,” and “enactments.” The words “road,” “public road” are treated as of the same signification as “highway.” The constitutional name of the Senate and House of Representatives of the State, when taken together as a law-making body, is “The General Assembly of the State of Iowa,” but in popular usage it is more frequently and simply mentioned as “the Legislature,” a usage which we have sometimes followed. Other similar instances will be noted by the observant reader.

IOWA

ITS STATE AND LOCAL GOVERNMENT

WITH THE

STATE CONSTITUTION

TO TEACHERS

Knowledge of the general nature of our state government and of the laws which command our obedience is indispensable to a high standard of citizenship. Every man and woman is charged with public as well as private responsibilities; and upon the manner in which the young are trained to meet those responsibilities depends the destiny of our country.

To aid in imparting instructions along these lines, the following chapters have been written.

The subject treated is generally, but very erroneously, supposed to be too complex and abstruse for any but trained lawyers to understand. The machinery of our government is remarkable for its simplicity, and its practical operation can readily be made plain and full of interest to every intelligent child.

Practical illustration of the administration of government, in some of its minor features at least, is always at hand for the use of the apt instructor; and such familiar examples as the working of public roads, annual school meetings, annual and special elections, proceedings of school directors, city councils, boards of supervisors, mayors, and justices of the peace, the assessment and collection of taxes, and other similar matters, can be made topics of profitable discussion and inquiry.

Concerning other features not coming within the range of personal observation, pupils should be encouraged to go beyond the outline lesson and investigate for themselves all available sources of information.

Among the authorities in easy reach are the Code, containing a compilation of all the statutes of general importance; the Official

Register, published yearly by the Secretary of State ; the Census Reports ; reports of all the various State Offices ; Annals of Iowa ; Academy of Science ; Handbook for Iowa Teachers, published annually for free distribution. Of these, the first can be found in the office of every lawyer and magistrate ; while the other documents named may usually be obtained without expense by applying to the proper officer at the State Capitol.

Many other helps will be discovered by the student who cultivates the habit of independent investigation and independent thought.

No word or phrase, made use of in the text, should be passed until its meaning is fully explained and understood. Studied in this manner and with this spirit, the time employed upon these pages cannot be otherwise than well spent.

CHAPTER I

CONSTITUTION OF IOWA

The heavy face figures in the margin are inserted for convenience of reference.

- 1 WE, THE PEOPLE OF THE STATE OF IOWA, grateful to the Supreme Being for the blessings hitherto enjoyed, and feeling our dependence on Him for a continuation of these blessings, do ordain and establish a free and independent government, by the name of THE STATE OF IOWA, the boundaries whereof shall be as follows :
- 2 Beginning in the middle of the main channel of the Mississippi river, at a point due east of the middle of the mouth of the main channel of the Des Moines river, thence up the middle of the main channel of the said Des Moines river, to a point on said river where the northern boundary line of the State of Missouri—as established by the Constitution of that State—adopted June 12, 1820—crosses the said middle of the main channel of the said Des Moines river ; thence westwardly along the said northern boundary line of the State of Missouri, as established at the time aforesaid, until an extension of said line intersects the middle of main channel of the Missouri river ; thence up the middle of the main channel of the said

Missouri river to a point opposite the middle of the main channel of the Big Sioux river, according to Nicollett's map ; thence up the main channel of the Big Sioux river, according to the said map, until it is intersected by the parallel of forty-three degrees and thirty minutes north latitude ; thence east along said parallel of forty-three degrees and thirty minutes, until said parallel intersects the middle of the main channel of the Mississippi river ; thence down the middle of the main channel of said Mississippi river to the place of beginning.

Article I. Bill of Rights

- 3** **SECTION 1.** All men are, by nature, free and equal, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety and happiness.
- 4** **SEC. 2.** All political power is inherent to the people. Government is instituted for the protection, security, and benefit of the people, and they have the right, at all times, to alter or reform the same, whenever the public good may require it.
- 5** **SEC. 3.** The General Assembly shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof ; nor shall any person be compelled to attend any place of worship, pay tithes, taxes, or other rates for building or repairing places of worship, or the maintenance of any minister, or ministry.
- 6** **SEC. 4.** No religious test shall be required as a qualification for any office or public trust, and no person shall be deprived of any of his rights, privileges, or capacities, or disqualified from the performance of any of his public or private duties, or rendered incompetent to give evidence in any court of law or equity, in consequence of his opinions on the subject of religion ; and any party to any judicial proceeding shall have

the right to use as a witness, or take the testimony of, any other person not disqualified on account of interest, who may be cognizant of any fact material to the case ; and parties to suits may be witnesses, as provided by law.

7 SEC. 5. Any citizen of this State who may hereafter be engaged, either directly or indirectly, in a duel, either as principal, or accessory before the fact, shall forever be disqualified from holding any office under the constitution and laws of this State.

8 SEC. 6. All laws of a general nature shall have a uniform operation ; the General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities which, upon the same terms, shall not equally belong to all citizens.

9 SEC. 7. Every person may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech, or of the press. In all prosecutions or indictments for libel, the truth may be given in evidence to the jury, and if it appear to the jury that the matter charged as libelous was true, and was published with good motives and for justifiable ends, the party shall be acquitted.

10 SEC. 8. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches shall not be violated ; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized.

11 SEC. 9. The right of trial by jury shall remain inviolate ; but the General Assembly may authorize trial by a jury of a less number than twelve men in inferior courts ; but no person shall be deprived of life, liberty, or property without due process of law.

12 SEC. 10. In all criminal prosecutions, and in cases involving the life or liberty of an individual, the accused shall have a

right to a speedy and public trial by an impartial jury ; to be informed of the accusation against him; to have a copy of the same when demanded ; to be confronted with the witnesses against him ; to have compulsory process for his witnesses ; and to have the assistance of counsel.

13 SEC. 11. All offenses less than felony and in which the punishment does not exceed a fine of one hundred dollars, or imprisonment for thirty days, shall be tried summarily before a Justice of the Peace, or other officer authorized by law, on information under oath, without indictment, or the intervention of a grand jury, saving to the defendant the right of appeal ; and no person shall be held to answer for any higher criminal offense, unless on presentment or indictment by a grand jury, except in cases arising in the army, or navy, or in the militia, when in actual service, in time of war or public danger.

14 SEC. 12. No person shall, after acquittal, be tried for the same offense. All persons shall, before conviction, be bailable, by sufficient sureties, except for capital offenses where the proof is evident, or the presumption great.

15 SEC. 13. The writ of habeas corpus shall not be suspended, or refused when application is made as required by law, unless, in case of rebellion, or invasion, the public safety may require it.

16 SEC. 14. The military shall be subordinate to the civil power. No standing army shall be kept up by the State in time of peace ; and in time of war, no appropriation for a standing army shall be for a longer time than two years.

17 SEC. 15. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war except in the manner prescribed by law.

18 SEC. 16. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason, un-

less on the evidence of two witnesses to the same overt act, or confession in open court.

19 SEC. 17. Excessive bail shall not be required; excessive fines shall not be imposed, and cruel and unusual punishment shall not be inflicted.

20 SEC. 18. Private property shall not be taken for public use without just compensation first being made, or secured to be made, to the owner thereof, as soon as the damages shall be assessed by a jury, who shall not take into consideration any advantages that may result to said owner on account of the improvement for which it is taken.

21 SEC. 19. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in case of fraud; and no person shall be imprisoned for a militia fine in time of peace.

22 SEC. 20. The people have the right freely to assemble together to counsel for the common good; to make known their opinions to their representatives and to petition for a redress of grievances.

23 SEC. 21. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts shall ever be passed.

24 SEC. 22. Foreigners who are, or may hereafter become, residents of this State shall enjoy the same rights in respect to the possession, enjoyment, and descent of property as native-born citizens.

25 SEC. 23. There shall be no slavery in this State, nor shall there be involuntary servitude, unless for the punishment of crime.

26 SEC. 24. No lease or grant of agricultural lands, reserving any rent, or service of any kind, shall be valid for a longer period than twenty years.

27 SEC. 25. The enumeration of rights shall not be construed to impair or deny others, retained by the people.

28 [SEC. 26. No person shall manufacture for sale, or sell, or

keep for sale, as a beverage, any intoxicating liquors whatever, including ale, wine, and beer. The General Assembly shall by law prescribe regulations for the enforcement of the prohibition herein contained, and shall thereby provide suitable penalties for the violation of the provision hereof.]

- 29 [The foregoing amendment was adopted at a special election held on June 27, 1882. The supreme court, April 21, 1883, in the case of *Koehler & Lange vs. Hill*, and reported in 60th Iowa, page 543, held that, owing to certain irregularities, the same was not legally submitted to the electors, and did not become a part of the constitution.]

Article II. Right of Suffrage

- 30 SECTION 1. Every [white] male citizen of the United States, of the age of twenty-one years, who shall have been a resident of this State six months next preceding the election, and of the county in which he claims his vote sixty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law.

[Amended by striking out the word "white" at the general election in 1868.]

- 31 SEC. 2. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such elections, going to and returning therefrom.

- 32 SEC. 3. No elector shall be obliged to perform military duty on the day of election, except in time of war or public danger.

- 33 SEC. 4. No person in the military, naval, or marine service of the United States shall be considered a resident of this State by being stationed in any garrison, barrack, or military or naval place or station within this State.

- 34 SEC. 5. No idiot, or insane person, or person convicted of any infamous crime shall be entitled to the privilege of an elector.

12 IOWA, ITS STATE AND LOCAL GOVERNMENT

- 35** SEC. 6. All elections by the people shall be by ballot.
[Amendment.] The general election for State, district, county, and township officers shall be held on the Tuesday next after the first Monday in November.
[The foregoing amendment was adopted at the general election in 1884.]

Article III. Of the Distribution of Powers

- 36** SECTION 1. The powers of the government of Iowa shall be divided into three separate departments—the Legislative, the Executive, and the Judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any function appertaining to either of the others, except in cases hereinafter expressly directed or permitted.

Legislative Department.

- 37** SECTION 1. The Legislative authority of this State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives; and the style of every law shall be:

“Be it enacted by the General Assembly of the State of Iowa.”

- 38** SEC. 2. The sessions of the General Assembly shall be biennial, and shall commence on the second Monday in January next ensuing the election of its members; unless the Governor of the State shall, in the meantime, convene the General Assembly by proclamation.

- 39** SEC. 3. The members of the House of Representatives shall be chosen every second year by the qualified electors of their respective districts, on the Tuesday next after the first Monday in November; and their term of office shall commence on the first day of January next after their election, and continue two years, and until their successors are elected and qualified.

- 40** SEC. 4. No person shall be a member of the House of Representatives who shall not have attained the age of

twenty-one years, be a [*free white*] male citizen of the United States, and shall have been an inhabitant of this State one year next preceding his election, and at the time of his election shall have had an actual residence of sixty days in the county or district he may have been chosen to represent.

[*Amended by striking out the words "free white," at the general election in 1880.*]

41 SEC. 5. Senators shall be chosen for the term of four years, at the same time and place as Representatives ; they shall be twenty-five years of age, and possess the qualifications of Representatives as to residence and citizenship.

42 SEC. 6. The number of Senators shall not be less than one-third, nor more than one-half the Representative body ; and shall be so classified, by lot, that one class, being as nearly one-half as possible, shall be elected every two years. When the number of Senators is increased, they shall be annexed by lot to one or the other of the two classes, so as to keep them as nearly equal in numbers as practicable.

43 SEC. 7. Each house shall choose its own officers, and judge of the qualification, election, and return of its own members. A contested election shall be determined in such manner as shall be directed by law.

44 SEC. 8. A majority of each house shall constitute a quorum to transact business ; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

45 SEC. 9. Each house shall sit upon its own adjournments, keep a journal of its proceedings, and publish the same ; determine its rules of proceedings, punish members for disorderly behavior, and, with the consent of two-thirds, expel a member, but not a second time for the same offense ; and shall have all other powers necessary for a branch of the General Assembly of a free and independent State.

- 46** SEC. 10. Every member of the General Assembly shall have the liberty to dissent from, or protest against, any act or resolution which he may think injurious to the public or an individual, and have the reasons for his dissent entered on the journals; and the yeas and nays of the members of either house, on any question, shall, at the desire of any two members present, be entered on the journals.
- 47** SEC. 11. Senators and representatives, in all cases, except treason, felony, or breach of the peace, shall be privileged from arrest during the session of the General Assembly, and in going to and returning from the same.
- 48** SEC. 12. When vacancies occur in either house, the Governor, or the person exercising the functions of Governor, shall issue writs of election to fill such vacancies.
- 49** SEC. 13. The doors of each house shall be open, except on such occasions as, in the opinion of the house, may require secrecy.
- 50** SEC. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.
- 51** SEC. 15. Bills may originate in either house, and may be amended, altered, or rejected by the other; and every bill, having passed both houses, shall be signed by the Speaker and President of their respective houses.
- 52** SEC. 16. Every bill which shall have passed the General Assembly shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, which shall enter the same upon their journal, and proceed to reconsider it; if, after such reconsideration, it again pass both houses, by yeas and nays, by a majority of two-thirds of the members of each house, it shall become a law, notwithstanding the Governor's objections. If any bill shall not be returned within three days after it shall have

been presented to him, Sunday excepted, the same shall be a law in like manner as if he had signed it, unless the General Assembly, by adjournment, prevent such return. Any bill submitted to the Governor for his approval during the last three days of a session of the General Assembly, shall be deposited by him in the office of the Secretary of State, within thirty days after the adjournment, with his approval, if approved by him, and with his objections, if he disapproves thereof.

53 SEC. 17. No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the General Assembly, and the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays entered on the journal.

54 SEC. 18. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws, at every regular session of the General Assembly.

55 SEC. 19. The House of Representatives shall have the sole power of impeachment, and all impeachments shall be tried by the Senate. When sitting for that purpose, the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

56 SEC. 20. The Governor, Judges of the Supreme and District Courts, and other State officers shall be liable to impeachment for any misdemeanor or malfeasance in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust, or profit under this State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment according to law. All other civil officers shall be tried for misdemeanors and malfeasance in office, in such manner as the General Assembly may provide.

57 SEC. 21. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office of profit under this State which shall have been created, or the emoluments of which shall have been increased, during such term, except such offices as may be filled by elections by the people.

58 SEC. 22. No person holding any lucrative office under the United States, or this State, or any other power, shall be eligible to hold a seat in the General Assembly ; but offices in the militia to which there is attached no annual salary, or the office of justice of the peace, or postmaster whose compensation does not exceed one hundred dollars per annum, or notary public, shall not be deemed lucrative.

59 SEC. 23. No person who may hereafter be a collector or holder of public moneys shall have a seat in either House of the General Assembly, or be eligible to hold any office of trust or profit in this State, until he shall have accounted for and paid into the treasury all sums for which he may be liable.

60 SEC. 24. No money shall be drawn from the treasury but in consequence of appropriations made by law.

61 SEC. 25. Each member of the first General Assembly under this Constitution shall receive three dollars per diem while in session ; and the further sum of three dollars for every twenty miles traveled, in going to and returning from the place where such session is held, by the nearest traveled route ; after which they shall receive such compensation as shall be fixed by law ; but no General Assembly shall have power to increase the compensation of its own members. And when convened in extra session they shall receive the same mileage and per diem compensation as fixed by law for the regular session, and none other.

62 SEC. 26. No law of the General Assembly, passed at a regular session, of a public nature, shall take effect until the

fourth day of July next after the passage thereof. Laws passed at a special session shall take effect ninety days after the adjournment of the General Assembly by which they were passed. If the General Assembly shall deem any law of immediate importance, they may provide that the same shall take effect by publication in newspapers in the State.

63 SEC. 27. No divorce shall be granted by the General Assembly.

64 SEC. 28. No lottery shall be authorized by this State ; nor shall the sale of lottery tickets be allowed.

65 SEC. 29. Every act shall embrace but one subject, and matters properly connected therewith ; which subject shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

66 SEC. 30. The General Assembly shall not pass local or special laws in the following cases :

For the assessment and collection of taxes for State, county, or road purposes ;

For laying out, opening, and working roads or highways ;

For changing the names of persons ;

For the incorporation of cities and towns ;

For vacating, roads, town plats, streets, alleys, or public squares ;

For locating or changing county seats.

67 In all the cases above enumerated, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the State ; and no law changing the boundary lines of any county shall have effect until upon being submitted to the people of the counties affected by the change, at a general election, it shall be approved by a majority of the votes in each county, cast for and against it.

68 SEC. 31. No extra compensation shall be made to any officer, public agent, or contractor after the service shall have been rendered, or the contract entered into ; nor shall any money be paid on any claim the subject-matter of which shall not have been provided for by pre-existing laws, and no public money or property shall be appropriated for local or private purposes, unless such appropriation, compensation, or claim be allowed by two-thirds of the members elected to each branch of the General Assembly.

69 SEC. 32. Members of the General Assembly shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation : " I do solemnly swear [or affirm, as the case may be] that I will support the Constitution of the United States and the Constitution of the State of Iowa, and that I will faithfully discharge the duties of Senator [or Representative, as the case may be] according to the best of my ability." And members of the General Assembly are hereby empowered to administer to each other the said oath or affirmation.

70 SEC. 33. The General Assembly shall, in the years One thousand eight hundred and fifty-nine, One thousand eight hundred and sixty-three, One thousand eight hundred and sixty-five, One thousand eight hundred and sixty-seven, One thousand eight hundred and sixty-nine, and One thousand eight hundred and seventy-five, and every ten years thereafter, cause an enumeration to be made of all the [white] inhabitants of the State.

[Amended by striking out the word "white" at the general election in 1868.]

71 SEC. 34. The number of senators shall, at the next session following each period of making such enumeration, and the next session following each United States census, be fixed by law, and apportioned among the several counties, according to the number of [white] inhabitants in each.

[Amended by striking out the word "white" at the general election in 1868.]

- 72 SEC. 35. The Senate shall not consist of more than fifty members, nor the House of Representatives of more than one hundred; and they shall be apportioned among the several counties and representative districts of the State, according to the number of [white] inhabitants in each, upon ratios to be fixed by law; but no representative district shall contain more than four organized counties, and each district shall be entitled to at least one representative. Every county and district which shall have a number of inhabitants equal to one-half of the ratio fixed by law shall be entitled to one representative; and any one county containing in addition to the ratio fixed by law one half of that number, or more, shall be entitled to one additional representative. No floating district shall hereafter be formed.

[Amended by striking out the word "white" at the general election in 1868.]

- 73 SEC. 36. At its first session under this Constitution, and at every subsequent regular session, the General Assembly shall fix the ratio of representation, and also form into representative districts those counties which will not be entitled singly to a representative.

- 74 SEC. 37. When a congressional, senatorial, or representative district shall be composed of two or more counties, it shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a congressional, senatorial, or representative district.

- 75 SEC. 38. In all elections by the General Assembly, the members thereof shall vote viva voce, and the votes shall be entered on the journal.

Article IV. Executive Department

76 **SECTION 1.** The Supreme Executive power of the State shall be vested in a Chief Magistrate, who shall be styled the Governor of the State of Iowa.

77 **SEC. 2.** The Governor shall be elected by the qualified electors at the time and place of voting for members of the General Assembly, and shall hold his office two years from the time of his installation and until his successor is elected and qualified.

78 **SEC. 3.** There shall be a Lieutenant Governor, who shall hold his office two years, and be elected at the same time as the Governor. In voting for Governor and Lieutenant Governor, the electors shall designate for whom they vote as Governor, and for whom as Lieutenant Governor. The returns of every election for Governor and Lieutenant Governor shall be sealed up and transmitted to the seat of government of the State, directed to the Speaker of the House of Representatives, who shall open and publish them in the presence of both Houses of the General Assembly.

79 **SEC. 4.** The persons respectively having the highest number of votes for Governor and Lieutenant Governor shall be declared duly elected; but in case two or more persons shall have an equal and the highest number of votes for either office, the General Assembly shall, by joint vote, forthwith proceed to elect one of said persons Governor, or Lieutenant Governor, as the case may be.

80 **SEC. 5.** Contested elections for Governor or Lieutenant Governor shall be determined by the General Assembly in such manner as may be prescribed by law.

81 **SEC. 6.** No person shall be eligible to the office of Governor or Lieutenant Governor who shall not have been a citizen of the United States, and a resident of the State, two

years next preceding the election, and attained the age of thirty years at the time of said election.

82 SEC. 7. The Governor shall be commander in chief of the militia, the army, and navy of this State,

83 SEC. 8. He shall transact all executive business with the officers of government, civil and military, and may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices.

84 SEC. 9. He shall take care that the laws are faithfully executed.

85 SEC. 10. When any office shall, from any cause, become vacant, and no mode is provided by the Constitution and laws for filling such vacancy, the Governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the General Assembly, or at the next election by the people.

86 SEC. 11. He may, on extraordinary occasions, convene the General Assembly, by proclamation, and shall state to both Houses, when assembled, the purpose for which they shall have been convened.

87 SEC. 12. He shall communicate, by message, to the General Assembly, at every regular session, the condition of the State, and recommend such matters as he shall deem expedient.

88 SEC. 13. In case of disagreement between the two Houses with respect to the time of adjournment, the Governor shall have power to adjourn the General Assembly to such time as he may think proper ; but no such adjournment shall be beyond the time fixed for the regular meeting of the next General Assembly.

89 SEC. 14. No person shall, while holding any office under the authority of the United States, or this State, execute the office of Governor, or Lieutenant Governor, except as herein after expressly provided.

90 **SEC. 15.** The official term of the Governor and Lieutenant Governor shall commence on the second Monday of January after their election, and continue for two years and until their next successors are elected and qualified. The Lieutenant Governor, while acting as Governor, shall receive the same pay as provided for Governor ; and while presiding in the Senate, shall receive as compensation therefor the same mileage and double the per diem pay provided for a Senator, and none other.

91 **SEC. 16.** The Governor shall have power to grant reprieves, commutations, and pardons, after conviction, for all offenses except treason and cases of impeachment, subject to such regulations as may be provided by law. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the General Assembly at its next meeting, when the General Assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law ; and shall report to the General Assembly, at its next meeting, each case of reprieve, commutation, or pardon granted, and the reason therefor ; and also all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted.

92 **SEC. 17.** In case of the death, impeachment, resignation, removal from office, or other disabilities of the Governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve on the Lieutenant Governor.

93 **SEC. 18.** The Lieutenant Governor shall be President of the Senate, but shall only vote when the Senate is equally divided ; and in case of his absence or impeachment, or when he shall exercise the office of Governor, the Senate shall choose a President pro tempore.

- 94** SEC. 19. If the Lieutenant Governor, while acting as Governor, shall be impeached, displaced, resign, or die, or otherwise become incapable of performing the duties of the office, the President pro tempore of the Senate shall act as Governor until the vacancy is filled or the disability removed; and if the President of the Senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of Governor, the same shall devolve upon the Speaker of the House of Representatives.
- 95** SEC. 20. There shall be a seal of this State, which shall be kept by the Governor, and used by him officially, and shall be called the Great Seal of the State of Iowa.
- 96** SEC. 21. All grants and commissions shall be in the name and by the authority of the people of the State of Iowa, sealed with the Great Seal of the State, signed by the Governor, and countersigned by the Secretary of State.
- 97** SEC. 22. A Secretary of State, Auditor of State, and Treasurer of State shall be elected by the qualified electors, who shall continue in office two years, and until their successors are elected and qualified; and perform such duties as may be required by law.
- Article V. Judicial Department**
- 98** SECTION 1. The Judicial power shall be vested in a Supreme Court, District Court, and such other courts, inferior to the Supreme Court, as the General Assembly may, from time to time, establish.
- 99** SEC. 2. The Supreme Court shall consist of three judges, two of whom shall constitute a quorum to hold court.
- 100** SEC. 3. The judges of the Supreme Court shall be elected by the qualified electors of the State, and shall hold their court at such time and place as the General Assembly may prescribe. The judges of the Supreme Court so elected shall be classified so that one judge shall go out of office every two

years ; and the judge holding the shortest term of office under such classification shall be Chief Justice of the court, during his term, and so on in rotation. After the expiration of their terms of office, under such classification, the term of each Judge of the Supreme Court shall be six years, and until his successor shall have been elected and qualified. The judges of the Supreme Court shall be ineligible to any other office in the State during the term for which they shall have been elected.

101 SEC. 4. The Supreme Court shall have appellate jurisdiction only in cases in chancery, and shall constitute a court for the correction of errors at law, under such restrictions as the General Assembly may, by law, prescribe ; and shall have power to issue all writs and process necessary to secure justice to parties, and exercise a supervisory control over all inferior Judicial tribunals throughout the State.

102 SEC. 5. The District Court shall consist of a single judge, who shall be elected by the qualified electors of the district in which he resides. The judge of the District Court shall hold his office for the term of four years and until his successor shall have been elected and qualified ; and shall be ineligible to any other office, except that of judge of the Supreme Court, during the term for which he was elected.

103 SEC. 6. The District Court shall be a court of law and equity, which shall be distinct and separate jurisdictions, and have jurisdiction in civil and criminal matters arising in their respective districts, in such manner as shall be prescribed by law.

104 SEC. 7. The judges of the Supreme and District Courts shall be conservators of the peace throughout the State.

105 SEC. 8. The style of all process shall be "The State of Iowa," and all prosecutions shall be conducted in the name and by the authority of the same.

106 SEC. 9. The salary of each judge of the Supreme Court shall

be two thousand dollars per annum ; and that of each district judge, one thousand six hundred dollars per annum, until the year eighteen hundred and sixty ; after which time they shall severally receive such compensation as the General Assembly may, by law, prescribe ; which compensation shall not be increased or diminished during the term for which they shall have been elected.

107 SEC. 10. The State shall be divided into eleven Judicial Districts ; and after the year eighteen hundred and sixty, the General Assembly may reorganize the judicial districts and increase or diminish the number of districts, or the number of judges of the said court, and may increase the number of judges of the Supreme Court ; but such increase or diminution shall not be more than one district, or one judge of either court, at any one session ; and no reorganization of the districts, or diminution of the number of judges, shall have the effect of removing a judge from office. Such reorganization of the districts, or any change in the boundaries thereof, or increase or diminution of the number of judges, shall take place every four years thereafter, if necessary, and at no other time.

108 [Amendment.] At any regular session of the General Assembly, the State may be divided into the necessary judicial districts for District Court purposes, or the said districts may be reorganized and the number of the districts and the judges of said courts increased or diminished ; but no reorganization of the districts or diminution of the judges shall have the effect of removing a judge from office.

[The foregoing amendment was adopted at the general election in 1884.]

109 SEC. 11. The judges of the Supreme and District Courts shall be chosen at the general election ; and the term of office of each judge shall commence on the first day of January next, after his election.

110 SEC. 12. The General Assembly shall provide, by law, for the election of an Attorney General by the people, whose term of office shall be two years and until his successor shall have been elected and qualified.

111 [*Sec. 13. The qualified electors of each Judicial District shall, at the time of the election of District Judge, elect a District Attorney, who shall be a resident of the district for which he is elected, and who shall hold his office for the term of four years and until his successor shall have been elected and qualified.*]

[*The foregoing section was stricken out and the following substituted therefor at the general election in 1884.*]

112 [SEC. 13.] The qualified electors of each county shall, at the general election in the year 1886, and every two years thereafter, elect a county attorney, who shall be a resident of the county for which he is elected, and shall hold his office for two years and until his successor shall have been elected and qualified.

[*The foregoing section was adopted as a substitute for the original section at the general election in 1884.*]

113 SEC. 14. It shall be the duty of the General Assembly to provide for the carrying into effect of this article, and to provide for a general system of practice in all the courts of this State.

114 [Amendment.] The grand jury may consist of any number of members, not less than five nor more than fifteen, as the General Assembly may by law provide, or the General Assembly may provide for holding persons to answer for any criminal offense without the interference of a grand jury.

[*The foregoing amendment was adopted at the general election in 1884.*]

Article VI. Militia

115 SECTION 1. The militia of this State shall be composed of all able-bodied [*white*] male citizens between the ages of eighteen

and forty-five years, except such as are, or may hereafter be, exempt by the laws of the United States or of this State, and shall be armed, equipped, and trained as the General Assembly may provide by law.

[Amended by striking out the word "white" at the general election in 1868.]

116 SEC. 2. No person or persons conscientiously scrupulous of bearing arms shall be compelled to do military duty in time of peace ; provided, that such person or persons shall pay an equivalent for such exemption in the same manner as other citizens.

117 SEC. 3. All commissioned officers of the militia (staff officers excepted) shall be elected by the persons liable to perform military duty, and shall be commissioned by the Governor.

Article VII. State Debts

118 SECTION 1. The credit of the State shall not, in any manner, be given or loaned to, or in aid of, any individual, association, or corporation ; and the State shall never assume, or become responsible for, the debts or liabilities of any individual, association, or corporation, unless incurred in time of war for the benefit of the State.

119 SEC. 2. The State may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for ; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the General Assembly, or at different periods of time, shall never exceed the sum of two hundred and fifty thousand dollars ; and the money arising from the creation of such debts shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

120 SEC. 3. All losses to the permanent, School, or University fund of this State which shall have been occasioned by the

defalcation, mismanagement, or fraud of the agents or officers controlling and managing the same, shall be audited by the proper authorities of the State. The amount so audited shall be a permanent funded debt against the State, in favor of the respective fund sustaining the loss, upon which not less than six per cent. annual interest shall be paid. The amount of liability so created shall not be counted as a part of the indebtedness authorized by the second section of this article.

121 SEC. 4. In addition to the above limited power to contract debts, the State may contract debts to repel invasion, suppress insurrection, or defend the State in war ; but the money arising from the debts so contracted shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

122 SEC. 5. Except the debts hereinbefore specified in this article, no debt shall be hereafter contracted by or on behalf of this State, unless such debt shall be authorized by some law for some single work or object, to be distinctly specified therein ; and such law shall impose and provide for the collection of a direct annual tax, sufficient to pay the interest on such debt, as it falls due, and also to pay and discharge the principal of such debt, within twenty years from the time of contracting thereof ; but no such law shall take effect until at a general election it shall have been submitted to the people, and have received a majority of all the votes cast for and against it at such election ; and all money raised by authority of such law shall be applied only to the specific object therein stated, or to the payment of the debt created thereby ; and such law shall be published in at least one newspaper in each county, if one is published therein, throughout the State, for three months preceding the election at which it is submitted to the people.

123 SEC. 6. The Legislature may, at any time after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same ; and may, at any time,

forbid the contracting of any further debt, or liability, under such law; but the tax imposed by such law, in proportion to the debt or liability, which may have been contracted in pursuance thereof, shall remain in force and be irrepealable, and be annually collected, until the principal and interest are fully paid.

- 124** SEC. 7. Every law which imposes, continues, or revives a tax shall distinctly state the tax, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

Article VIII. Corporations

- 125** SECTION 1. No corporation shall be created by special laws; but the General Assembly shall provide, by general laws, for the organization of all corporations hereafter to be created, except as hereinafter provided.

- 126** SEC. 2. The property of all corporations for pecuniary profit shall be subject to taxation, the same as that of individuals.

- 127** SEC. 3. The State shall not become a stockholder in any corporation; nor shall it assume or pay the debt or liability of any corporation unless incurred in time of war for the benefit of the State.

- 128** SEC. 4. No political or municipal corporation shall become a stockholder in any banking corporation, directly or indirectly.

- 129** SEC. 5. No act of the General Assembly, authorizing or creating corporations or associations with banking powers, nor amendments thereto, shall take effect, or in any manner be in force, until the same shall have been submitted, separately, to the people, at a general or special election, as provided by law, to be held not less than three months after the passage of the act, and shall have been approved by a majority of all the electors voting for and against it at such election.

- 130** SEC. 6. Subject to the provisions of the foregoing section,

the General Assembly may also provide for the establishment of a State Bank with branches.

131 SEC. 7. If a State Bank be established, it shall be founded on an actual specie basis, and the branches shall be mutually responsible for each other's liabilities upon all notes, bills, and other issues intended for circulation as money.

132 SEC. 8. If a general Banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of State, of all bills, or paper credit designed to circulate as money, and require security to the full amount thereof, to be deposited with the State Treasurer, in United States stocks, or in interest paying stocks of States in good credit and standing, to be rated at ten per cent. below their average value in the city of New York, for the thirty days next preceding their deposit; and in case of a depreciation of any portion of said stocks, to the amount of ten per cent. on the dollar, the bank or banks owning such stocks shall be required to make up said deficiency by depositing additional stocks; and said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of any transfer, and to whom.

133 SEC. 9. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an amount equal to his or her respective shares so held, for all of its liabilities accruing while he or she remains such stockholder.

134 SEC. 10. In case of the insolvency of any banking institution, the bill-holders shall have a preference over its other creditors.

135 SEC. 11. The suspension of specie payments by banking institutions shall never be permitted or sanctioned.

136 SEC. 12. Subject to the provisions of this article, the General Assembly shall have power to amend or repeal all laws for the organization or creation of corporations, or granting of special

or exclusive privileges or immunities, by a vote of two thirds of each branch of the General Assembly; and no exclusive privileges, except as in this article provided, shall ever be granted.

137 **Article IX. Education and School Lands**

1st. Education

138 *[Sections 1 to 15 of this Article created a Board of Education having power to legislate and make rules in relation to the schools of the State, but gave the General Assembly power to abolish such Board after the year 1863. Under this power the Board of Education was abolished by legislative enactment in the year 1864, and the sections referred to are here omitted as no longer of practical importance.]*

2d. School Funds and School Lands

139 **SECTION 1.** The educational and school funds and lands shall be under the control and management of the General Assembly of this State.

140 **SEC. 2.** The University lands, and the proceeds thereof, and all moneys belonging to said fund shall be a permanent fund for the sole use of the State University. The interest arising from the same shall be annually appropriated for the support and benefit of said University.

141 **SEC. 3.** The General Assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State, for the support of schools, which may have been or shall hereafter be sold or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress distributing the proceeds of the public lands among the several States of the Union, approved in the

year of our Lord one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as has been or may hereafter be granted by Congress, on the sale of lands in this State, shall be and remain a perpetual fund, the interest of which, together with all rents of the unsold lands, and such other means as the General Assembly may provide, shall be inviolably appropriated to the support of common schools throughout the State.

142 SEC. 4. The money which may have been or shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid, or fine collected, among the several school districts of said counties, in proportion to the number of youths subject to enumeration in such districts, to the support of common schools, or the establishment of libraries, as the Board of Education shall from time to time provide.

143 SEC. 5. The General Assembly shall take measures for the protection, improvement, or other disposition of such lands as have been or may hereafter be reserved or granted by the United States, or any person or persons, to this State, for the use of the University and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be and remain a permanent fund, the interest of which shall be applied to the support of said University, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the General Assembly as soon as may be to provide effectual means for the improvement and permanent security of the funds of said University.

144 SEC. 6. The financial agents of the school funds shall be the same that, by law, receive and control the State and

county revenue for other civil purposes, under such regulations as may be provided by law.

145 SEC. 7. The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of youths between the ages of five and twenty-one years, in such manner as may be provided by the General Assembly.

Article X. Amendments to the Constitution

146 SECTION 1. Any amendment or amendments to this Constitution may be proposed in either House of the General Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two Houses, such proposed amendment shall be entered on their journals, with the yeas and nays taken thereon, and referred to the Legislature to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice; and if, in the General Assembly so next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each House, then it shall be the duty of the General Assembly to submit such proposed amendment or amendments to the people, in such manner and at such time as the General Assembly shall provide; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the General Assembly voting thereon, such amendment or amendments shall become a part of the Constitution of this State.

147 SEC. 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

148 SEC. 3. At the general election to be held in the year one thousand eight hundred and seventy, and in each tenth year

thereafter, and also at such times as the General Assembly may, by law, provide, the question, "Shall there be a Convention to revise the Constitution, and amend the same?" shall be decided by the electors qualified to vote for members of the General Assembly; and in case a majority of the electors so qualified, voting at such election for and against such proposition, shall decide in favor of a convention for such purpose, the General Assembly, at its next session, shall provide by law for the election of delegates to such Convention.

Article XI. Miscellaneous

- 149** **SECTION 1.** The jurisdiction of Justices of the Peace shall extend to all civil cases (except cases in chancery and cases where the question of title to real estate may arise) where the amount in controversy does not exceed one hundred dollars, and by the consent of parties may be extended to any amount not exceeding three hundred dollars.
- 150** **SEC. 2.** No new county shall be hereafter created containing less than four hundred and thirty-two square miles; nor shall the territory of any organized county be reduced below that area; except the County of Worth, and the counties west of it, along the Northern boundary of this State, may be organized without additional territory.
- 151** **SEC. 3.** No county, or other political or municipal corporation, shall be allowed to become indebted in any manner or for any purpose to an amount, in the aggregate, exceeding five per centum on the value of the taxable property within such county or corporation—to be ascertained by the last State and county tax lists, previous to the incurring of such indebtedness.
- 152** **SEC. 4.** The boundaries of the State may be enlarged, with the consent of Congress and the General Assembly.
- 153** **SEC. 5.** Every person elected or appointed to any office shall, before entering upon the duties thereof, take an oath or affir-

mation to support the Constitution of the United States, and of this State, and also an oath of office.

154 SEC. 6. In all cases of elections to fill vacancies in office, occurring before the expiration of a full term, the person so elected shall hold for the residue of the unexpired term ; and all persons appointed to fill vacancies in office shall hold until the next general election and until their successors are elected and qualified.

155 SEC. 7. The General Assembly shall not locate any of the public lands which have been or may be granted by Congress to this State, and the location of which may be given to the General Assembly, upon lands actually settled, without the consent of the occupant. The extent of the claim of such occupant, so exempted, shall not exceed three hundred and twenty acres.

156 SEC. 8. The seat of government is hereby permanently established, as now fixed by law, at the city of Des Moines, in the County of Polk ; and the State University at Iowa City, in the County of Johnson.

Article XII. Schedule

157 SECTION 1. This Constitution shall be the supreme law of the State, and any law inconsistent therewith shall be void. The General Assembly shall pass all laws necessary to carry this Constitution into effect.

158 SEC. 2. All laws now in force and not inconsistent with this Constitution shall remain in force until they shall expire or be repealed.

159 [*The remaining sections prescribing when and how the Constitution shall go into effect, the time of holding the first election thereunder, and other similar provisions, having served their temporary purpose, are here omitted.*]

CHAPTER II

IOWA IN HISTORY

1. Discovery. (1673)—Prior to the year 1673, that portion of the United States embracing the present State of Iowa was wholly unknown to the civilized world. At that date the hardy French explorers, Joliet and Marquette, with five followers, made their way in birch canoes from Green Bay up the Fox River; and thence down the Wisconsin River to its junction with the Mississippi. Turning their frail craft southward, these brave men followed the course of the great unknown stream as far as the mouth of the Arkansas, and thus revealed to civilized man the beauty and promise of the northwest.

2. Claimed by France—By virtue of these discoveries, all the western half of the great Mississippi Valley was claimed by France as a part of her domain; but, so far as history discloses, Iowa thereafter remained unvisited by white men for more than a century.

3. Ceded to Spain. (1763)—In the year 1763. France, being engaged in war with England, and finding it difficult to defend her foreign provinces, ceded all her possessions in the Mississippi Valley to Spain.

4. Retransferred to France. (1800)—This arrangement proved to be temporary only, and in the year 1800 Spain restored the province to its original owner, France.

5. Ceded to the United States. (1803)—France, being involved in the desperate struggles which accom-

panied the rise of Napoleon, found it expedient to part with the possession of the territory thus regained, and in 1803 sold it to the United States for a comparatively insignificant sum of money.

6. Attached to Indiana. (1804)—In the following year the so-called Louisiana Purchase was divided in two parts, the northern portion (including what is now Iowa) being called the District of Louisiana, and, for the temporary purposes of government, placed under the jurisdiction of the Territory of Indiana.

7. Made Part of Missouri Territory. (1805)—One year later the District of Louisiana was given a territorial government of its own, and in the year 1812 its name was changed to Territory of Missouri.

8. Attached to Michigan. (1834)—In the year 1834, all that part of the United States north of the State of Missouri and west of the Mississippi was attached to the Territory of Michigan, under which jurisdiction it remained but two years.

9. Made Part of Wisconsin. (1836)—In 1836, after the admission of Michigan into the Union as a State, all that region now included in the States of Wisconsin, Iowa, Minnesota, and part of the Dakotas, was organized into a new Territory under the name of Wisconsin.

10. Made an Independent Territory. (1838)—Two years later, July 3, 1838, all that part of the then Territory of Wisconsin lying west of the Mississippi River was erected into an independent Territory under the name of Iowa.

11. Admitted to the Union. (1846)—Having rapidly increased in population, the Territory applied for admission to the Union; and, after considerable contro-

versy as to the boundaries of the proposed State, its admission was perfected December 28, 1846. The boundaries of the State, as finally settled, will be found described in the preamble of the Constitution (2).

CHAPTER III

DEVELOPMENT OF THE CONSTITUTION

1. State Constitutions not Uniform—While all States conform to the general requirements of a republican form of government, they differ widely in the management and administration of public affairs. For example, every State has its governor and other executive officers, but in no two States do these officers exercise exactly the same powers or perform exactly the same duties; all States have legislatures, but each State, by its constitution, has placed its own peculiar limitations and restrictions upon the legislative power; and, while all have judicial systems, in no two States are the courts arranged upon the same plan or given precisely the same jurisdiction.

2. Varieties of Local Government—So, also, there is great lack of uniformity in the method by which the various States provide for local, or neighborhood government. In the New England States, local government is exercised almost exclusively by the voters of the several towns or townships assembled in annual mass- or town-meetings; while in the Southern States township government is unknown. Again, in some States county government is vested in a board of supervisors having many members, organized and acting with much of the

formality of higher legislative bodies, while in others it is entrusted to a board of three commissioners, and in still others to a single county judge. These are but a few of the many features of variance between the state governments, but they are sufficient to illustrate the point made in the following paragraphs.

3. Early Settlement—No permanent white settlement having been effected in Iowa until about the year 1833, the nations and the territorial governments exercising nominal sway over it prior to that time have left none of their peculiarities impressed upon its constitution or laws. After 1833, settlement was rapidly augmented by immigration from nearly every State in the Union; but among these pioneers, the natives of New England, the Middle States, and Kentucky largely predominated.

4. Their Influence—These founders and builders of the commonwealth, coming, as we have seen, from widely separated States differing in constitutions, laws, and customs, were naturally inclined to model the new State and its institutions upon those under which they had been reared, with the result that the Iowa system is in many respects a conglomerate of features and principles borrowed from many sources, with such modifications and additions as the peculiarities of the situation seemed to render expedient.

5. Value of the Work Accomplished—This fact does not detract anything from the credit due to those who performed this important work. A constitution, law, or system made by judicious selection from others which have been put to the test of actual experiment may easily be an improvement upon all its models; and now, after fifty years of statehood, Iowa stands second

to none in the efficiency and success of her government, or in the contentment and prosperity of her people.

CHAPTER IV

RELATION OF THE STATE AND NATION

1. The General Government—It is assumed that the student entering upon the study of these chapters has already made himself familiar with the principles of the government of the United States, as taught in Young's "Government Class-book." If so, he has learned that the Federal Constitution is a written charter setting forth the authority conferred upon the general government by the people. The nation has no rightful power, and can exercise no rightful authority of any kind, for which there is not express or implied warrant in the national Constitution.

2. The State Government—The office of a State constitution is different. It does not undertake so much to provide what the State government may do, as to enumerate the things which it may not do, and the rights of the people which it may not limit or destroy.

3. Difference in Legislative Power—In legislative, or law-making power the difference between State and nation may be stated thus: the Congress of the United States can enact only such laws as are expressly or impliedly authorized by the national Constitution, while the State legislature can enact any law which is not expressly or impliedly forbidden by the national or State constitution. In other words, the nation can exercise only such powers as have been granted to it by the people, while the State may exercise all powers not with-

held or forbidden by the people. A little reflection will make plain this very wide distinction between national and State jurisdiction.

4. National Supremacy—In considering the great power exercised by the several States, the student should avoid the mistake of undervaluing the authority of the general government. Within the limit of its constitutional powers, it is supreme over all the States. It is the embodiment of national authority as distinguished from the local self-government of the several States. Through it alone we deal with foreign powers; by it we are known to the world as one great nation, and, in so far as the national integrity, safety, and credit are concerned, its claim to the allegiance and obedience of every citizen cannot be rightfully questioned.

5. State Supremacy—The national government does not, however, undertake to protect the lives, persons, or property of the citizens of the several States, except against foreign invasion and domestic insurrection. This duty and all others of a local character, the regulation of all commerce within the State, the preservation of public peace and order, and numberless other subjects of legislation which most nearly touch the people in their every-day lives, are left to the States exclusively.

CHAPTER V

CONSTITUTION AIDED BY STATUTES

1. Constitution an Outline—It will be noticed by the careful reader that in most respects the Constitution is a mere outline or statement of general rules and principles, and makes little if any attempt to prescribe the

details of government, or give minute directions as to the administration of public affairs. These things have been wisely left to the legislature to regulate by appropriate laws, as changing circumstances may, from time to time, render expedient.

2. Statutes Enacted—The legislature has, therefore, enacted many laws to make effectual the various provisions of the Constitution. In the succeeding chapters of this volume will be set forth in brief form, under appropriate heads, not only the constitutional outline above mentioned, but legislative enactments as well, so far as the same may be necessary to an intelligent understanding of our State and local government.

3. Explanatory—The name applied by the Constitution to the legislative or law-making branch of the State government is "The General Assembly of Iowa," but in this volume we shall use the words "general assembly" and "legislature" interchangeably, as expressing the same idea. By the word "statute" is meant a law enacted by the legislature, and liable to amendment or repeal by the same power. It is understood, of course, that a constitutional provision cannot be amended or modified by act of the legislature.

CHAPTER VI

PERSONAL RIGHTS

1. Article I of the Constitution—The first article of the Constitution, commonly known as the Bill of Rights, is a declaration of certain important rights and immunities pertaining to the people individually and collectively. These rights are thus specially mentioned

in the fundamental law of the State, to secure them against unfriendly and oppressive legislation, and to protect the people against usurpation and tyranny by any branch of the government.

2. Natural Rights—Section 1 of this article (3) reaffirms the rights so forcibly asserted in the Declaration of Independence,—the natural freedom and equality of all men; the enjoyment and defense of liberty; the acquirement, possession, and protection of property; and the unrestricted pursuit of safety and happiness.

3. Summary of all Civil Rights—It may well be said that this section of the Constitution summarizes all the most sacred rights of the citizen, and that the declarations contained in the remainder of Article I are simply more specific or particular statements of the principles therein embodied. The right to life, liberty, property, and the pursuit of happiness is so plain to the just mind that no argument can make it clearer; yet history shows us that in all ages of the world men have been compelled to struggle for its recognition, and to endure untold hardships in its defense.

4. Nature of Government—The next section (4) defines the true nature and source of all government, declaring that all political power is inherent in the people, that government is instituted for their protection, security, and benefit, and that they have the right to alter or reform it whenever, in their judgment, the public good requires such action.

5. Political Power—The term “political power,” as used in the preceding paragraph, means all governmental power,—legislative, executive, and judicial. This power cannot be rightfully taken from the people, nor can they, by a voluntary surrender of it, deprive them-

selves of the right to alter or reform the government whenever they believe just cause exists for such change. They may by voluntary consent delegate the administration of these powers to a government, monarchical or republican as the case may be; but whenever the delegated power is abused, or the general good requires a change in such government, the people may resume it, or may inaugurate and enforce any change which they think for their own best interests.

6. Monarchy and Republic Contrasted—The recognition of this principle constitutes the essential distinction between a popular and a monarchical form of government. In the latter, the king is the source of all power; he is the sovereign; every officer, civil, military, and naval, from the highest to the lowest, looks to that sovereign as the ultimate and final authority which commands his allegiance and obedience. In a republic, every branch of the government, and every officer, is a servant of the people. In nation and State alike, we test all laws and all governmental powers by the constitution; but the constitution is itself the creature of the people's will.

7. Rule of the Majority—When we say that the powers of the government depend upon the consent of the governed, it must be remembered that the consent of the people, as a State or nation, is meant. That consent must be determined by the voice of the majority. Absolute unanimity can never be expected.

8. Religious Liberty—Religious liberty is guaranteed to every citizen of the State (5 and 6). The legislature cannot rightfully enact any law for the establishment of religion. No taxes can be levied or collected for church or religious purposes. Neither can a person's religious

views be made a test of his right to hold office, or his right to exercise or enjoy any of the rights of citizenship.

9. Propriety of these Guarantees—It may seem strange to the young student of the present day that it should be thought necessary to incorporate these guarantees in the Constitution; but it is not long since that in England and in some parts of our own country a man holding certain religious views was prohibited from holding office, was not permitted to testify as a witness in court, and in many other respects was treated as an outlaw.

10. Penalty for Dueling—In the earlier years of the present century the practice of dueling was quite general. Some of the most prominent men in American history, including Alexander Hamilton, Aaron Burr, Andrew Jackson, Henry Clay, and Thomas H. Benton, yielded to the custom of their times, and participated in these murderous combats. With the advance of Christian civilization, public sentiment has come to discountenance the barbarous practice, and it is now rarely resorted to. To prevent such crimes in this State, the Bill of Rights (7) provides that any citizen engaging in a duel, either as principal or accessory, forfeits his right to hold office.

11. Penalty not Exclusive—Disqualification for office is not the only penalty to which the duelist subjects himself. The killing of a person in such contest is murder in the first degree, and punishable accordingly.

12. Laws to be Uniform (8)—All laws of a general nature must have uniform operation, and the legislature must not grant to any citizen or class of citizens privileges or immunities which are not open to the enjoyment of all other citizens on the same terms. This

is intended to prevent unfair discrimination by the State between individuals or classes, to prevent the establishment of monopolies, and to preserve, as far as possible, equality of right and equality of opportunity to all the people.

13. Freedom of Speech and Press—Within proper limits, every person may freely speak, write, and publish his views on any subject (9). This does not give any one license to publish immoral or obscene literature, nor to falsely accuse another of crime, or hold him up to public hatred and contempt. These things are an abuse of the freedom which the Constitution seeks to preserve.

14. Greater Restriction in Other Countries—Under other forms of government, freedom of speech, and more especially freedom of the press, is restricted within narrow limits. In many countries all books and newspapers are subject to inspection by a public censor, without whose permission no publication can be lawfully made.

15. Security of Person and Home—No right is more highly valued by the freeman than the right to occupy his own home, secure from unnecessary, impertinent, or oppressive interference by others. It is an old English saying that "a man's house is his castle," and the principle that not even the king or the State or its officers may arbitrarily disturb his domestic privacy is firmly established in every English-speaking country in the world. It is, therefore, provided (10) that before the house of a citizen can be searched, or his person, papers, or property seized, a warrant must be issued for that purpose, upon sworn complaint, showing probable cause for such action.

16. Rights of Persons Charged with Crime—The

power to suppress and punish crime is a necessary attribute of all government. It is equally necessary that the exercise of this power be guarded against abuse, and that no person be subjected to the ignominy of criminal punishment, except upon fair and impartial trial.

17. Jury Trial—Every person charged with crime is entitled to trial by a jury (11 and 12). However imperfect the jury system may be, the experience of centuries has firmly established it in the affections and confidence of the people, and it is extremely doubtful if any other plan could be devised which would work more satisfactorily or to better public advantage.

18. Word Defined—The word "jury," when not otherwise qualified, means a body of twelve men duly selected for the trial of a question of fact, in a court of competent jurisdiction. A jury of six persons is authorized for the trial of petty misdemeanors before justices of the peace; but every person so convicted may appeal to the district court, and thus obtain a new trial before a full jury of twelve.

19. Right cannot be Waived—The right to trial by jury is so imperative that even where an accused person has voluntarily waived it, and consented to be tried before the court, without a jury, he is not bound by it, and if so convicted he may have the judgment set aside, and be granted a new trial in the usual form.

20. Trial to be Speedy and Public (12)—One who is placed under arrest on charge of crime must not be detained an unreasonable time without a hearing, but must be given a speedy and public trial. He must also be informed of the precise nature of the charge made against him, must be allowed to see and hear the witnesses who testify against him, must be given means to

compel the attendance of witnesses in his own behalf, and be permitted to have the assistance of counsel.

21. Petty Misdemeanors (13)—Offenses against the law for which the highest punishment does not exceed a fine of one hundred dollars, or thirty days' imprisonment in the county jail, are commonly called "petty misdemeanors," and are tried before justices of the peace.

22. How Tried—Such proceedings are begun by presenting to the justice of the peace a sworn complaint called an "information," stating the facts constituting the alleged offense. Upon this information a warrant is issued for the arrest of the accused, who is thus brought before the magistrate, and the truth of the charge is tried in the usual way. Cases of this class are never tried in the district court except on appeal.

23. Indictable Offenses—No person can be brought to trial for any offense of a higher degree than those above named, except upon indictment by a grand jury. A grand jury is a body of men duly summoned to attend the district court in each county to inquire into indictable offenses against the laws of the State, and to determine whether any person charged with such offense shall be put on trial. An indictment is simply a formal written accusation made to the court by a grand jury, charging some particular person or persons with the commission of a crime, and stating the facts constituting it. The district court alone has jurisdiction to try this class of cases.

24. Cannot be Twice Tried (14)—If a person charged with crime is once tried and acquitted, he cannot be again put on trial for the same offense. This rule sometimes works an apparent injustice to the State, for it

may easily happen that, after the accused has been acquitted, new evidence is discovered which would conclusively establish his guilt. It is thought better, however, that a guilty person occasionally thus escape just punishment than that the innocent be exposed to oppression and persecution by being again and again forced to stand trial upon the same charge.

25. Right to Bail (14)—Except when charged with a capital offense, where the proof is evident or the presumption is great, all persons have the right to bail until they have been duly tried and convicted. A capital offense is one which is punishable by death. The right to bail is the right to go at large on giving proper security for appearance before the court whenever called upon for trial.

26. Habeas Corpus—The nature of the writ of habeas corpus has already been explained (Y. C. B., page 88). It is justly considered the most efficient protection of the citizen against unlawful imprisonment, and is not to be suspended or denied except when, by reason of rebellion or invasion, the public safety may require it (15).

27. Military Subordinate to Civil Power (16, 17)—Sections 14 and 15 of the Bill insure the people of the State against military oppression. Military authority is of necessity arbitrary, and military officers, being accustomed to command and having the power to enforce obedience to their requisitions, are sometimes betrayed into disregard of private right and contempt of the civil law. It is, therefore, the policy of all republican governments to provide strong safeguards against abuses of this nature.

28. Treason—Treason is the highest crime known to

the law (18). It consists only in levying war against the State, adhering to its enemies, or giving them aid and comfort.

Under monarchical governments, almost every act or word which could be construed as disrespectful to the sovereign or as a denial of his right to rule has been held to be treasonable and punished with death. Such severity is inconsistent with our free institutions.

29. How Established (18)—No person can be convicted of treason except on the evidence of at least two witnesses to the same overt act, or confession in open court.

By "overt act" is meant some actual effort to wage war against the State or to assist its enemies in time of war—as distinguished from disloyal words or sentiments.

30. Excessive Bail, etc.—The Constitution also provides against oppression by the courts under forms of law, and to that end forbids (19) the requirement of excessive bail, the imposing of excessive fines, and the infliction of cruel and unusual punishments.

31. Taking Private Property for Public Use (20)—Private property is not to be taken for public use without compensation. It often becomes necessary to obtain or appropriate the property of the private citizen for the public benefit. For instance, ground may be needed for the site of a schoolhouse, or for a public highway, or other similar public purpose; and in such cases the rights of the individual owner must yield to the general good,—but not until proper compensation has been made.

32. No Imprisonment for Debt (21)—There can be no imprisonment for debt in any civil action, on mesne

or final process, unless in case of fraud; nor can any person be imprisoned for nonpayment of a militia fine.

33. Words Defined—The word “action,” as used in this section of the Constitution, means a proceeding or suit at law for the collection of a debt. “Mesne process,” as here used, is a writ or warrant issued in such proceeding or suit for the arrest and detention of the debtor until the case can be tried. “Final process” is a writ or warrant issued after the case is tried, to imprison the debtor until he pays or performs the judgment rendered against him.

34. Right of Assembly and Petition (22)—The people may at all times meet and counsel together for the common good, and to petition the proper authorities for the redress of their real or supposed grievances.

35. Bills of Attainder (23)—Following the example set in the Constitution of the United States, Iowa, also, forbids all bills of attainder and ex post facto laws. (See Y. C. B., page 161.)

36. Rights of Foreigners (24)—Persons of foreign birth residing within the State enjoy the same property rights as native-born citizens. This liberal policy has attracted a large immigration from European countries and contributed very much to the rapid development of the State. A foreign-born citizen who becomes naturalized under our laws is not considered an alien in any sense, and enjoys the same rights of citizenship as if native-born.

37. Slavery Forbidden (25)—Slavery never had legal existence in Iowa, but, at the time the State was organized, the institution was strongly entrenched in the South. The conflict of opinion between the North and South over the extension of slavery was very bitter, and

the application of a new State for admission to the Union was always the signal for heated discussion and controversy.

38. Result of Compromise—In the year 1846, both Iowa and Florida were seeking admission to the Union. In the former antislavery sentiment prevailed, while the interests and sympathies of the latter were with the slave States. As either of these applications, standing alone, would excite great opposition from those holding contrary views upon the slavery question, a compromise was effected by which both States were admitted at the same time and by the same bill or act of Congress—one as a free and the other as a slave State.

39. A Monument of Honor—To the present generation, it seems an anomaly that a “free country” should deem it necessary to put up a constitutional barrier against slavery, but to those familiar with the prejudices and passions then surrounding this subject in the public mind, the constitutional prohibition of human bondage stands as a monument to the wisdom, justice, and honor of the men who laid the foundation of our State.

40. Leases of Lands (26)—Leases of agricultural lands for terms of more than twenty years are invalid.

41. Reasons for such Restriction—Long leases and other devices by which the ownership of lands is perpetuated indefinitely in the same family or line of descent tends to create a landed aristocracy and thus to weaken and endanger republican institutions. They also serve to prevent the division and sale of lands and thereby lessen the number of citizens who own and control their own homes.

CHAPTER VII

RIGHT OF SUFFRAGE

1. Its Importance—The right to vote is the most sacred and valuable privilege which can be conferred upon the citizen. It is therefore highly proper that the Constitution should define such privilege in clear terms and guard it so far as possible from abuse and destruction.

2. Qualification for Suffrage (30)—The right to vote depends upon the following qualifications:

1st, Sex; 2d, Citizenship; 3d, Age; 4th, Residence.

These qualifications are separately considered in the following sections.

3. Sex—During the earlier history of the republic the right of suffrage was exercised by male citizens alone. Of late years the extension of suffrage to women has been earnestly advocated and the proposition has been received in many States with increasing favor. Three of the newer States, Wyoming, Colorado, and Utah, make no distinction between the sexes in this respect, but extend the voting privilege to men and women on equal terms.

4. Partial or Limited Suffrage—In some States where equal suffrage does not yet prevail, women have been granted the right to vote for school officers and upon certain other matters of a local character. A recent act of the Iowa legislature permits women to take part in elections upon questions of issuing bonds, borrowing money, or increasing taxation.

5. Citizenship—To be a legal voter a person must be a citizen of the United States. All native-born and naturalized subjects of the general government are citizens.

The manner in which foreign-born persons may become naturalized citizens of this country is explained in Young's Class-book, page 148.

6. Age—A citizen of immature age and undeveloped mind and judgment is manifestly unprepared for the responsibility of suffrage. By the common law of England, generally followed in the United States, twenty-one years is fixed as the age at which the child is considered fitted for emancipation from parental control, and in harmony with this ancient rule the Constitution prescribes the same age as the period for admission to the most important privilege of citizenship.

7. Residence—The voter must have resided in the State six months and in the county where he offers his vote sixty days. Without some restriction of this kind great frauds could be easily perpetrated. Idle and corrupt men could go from place to place voting repeatedly on the same day, or, by temporarily concentrating in one or more precincts, manufacture fraudulent majorities for any candidate.

8. Residence Defined—The residence of a voter is his permanent home or place of abode. One who remains in a place for the temporary purposes of business, pleasure, or education, does not thereby become a resident or legal voter, even though such temporary sojourn be prolonged into months or years.

9. Privilege of Electors (31)—On election days electors are privileged from arrest, except for treason, felony, or breach of the peace, during their attendance at the polls, and while going to and returning therefrom (32). They are also exempt from military duty on such days, except in time of war or public danger. The word "elector" is synonymous with "voter" or "legal voter."

10. Reasons for Privilege—These provisions are made to prevent the corrupt and oppressive misuse of legal process and military power. But for the privilege thus secured, voters might be arrested on trivial charges or called away on unnecessary military service for the mere purpose of keeping them from the polls.

11. Not Privileged—As above noted, the privilege from arrest does not extend to persons charged with treason or felony, or to those who may be engaged in a breach of the peace. Treason and felonies are crimes of a grave and serious character, and it is to the interest of society that persons charged therewith be apprehended whenever and wherever found. A felony, under the laws of this State, is any public offense punishable by imprisonment in the penitentiary.

12. Persons in Military Service (33)—Members of the army and navy of the United States are not to be considered residents by reason of service at any military or naval station in the State.

13. Not Entitled to Vote (34)—Idiots, insane persons, and persons convicted of any infamous crime are not legal voters. The term “infamous crime” as here used is synonymous with “felony” as defined in the tenth paragraph of this chapter. This disability or penalty for crime can be removed by the order or pardon of the Governor of the State.

14. Voting by Ballot (35)—The manner of voting is by ballot. Each State has its peculiar manner of balloting; but the essential features by which the voter is guarded from intimidation and improper influence, and the secrecy of the ballot preserved, are everywhere given special attention.

15. Australian Ballot—In Iowa, as in many of the

states, the so-called Australian method of balloting has been adopted. By this method all the different party tickets are printed in parallel columns upon one large sheet. At the head of each ticket opposite the party name is placed a circle, ○, and opposite the name of each individual candidate is placed a square, □. These ballots are furnished by public authority and placed in the hands of the judges of election at each polling-place.

16. Manner of Balloting—The person desiring to vote applies to the officers in charge of the polls and receives one of the sheets containing all the tickets as above described, and retires alone to a small stall or booth to prepare his ballot. If by reason of bodily infirmity or inability to read he cannot properly mark the ballot, he may have the assistance of one of the officers of the election.

17. Marking the Ballot—In the seclusion of the booth the voter proceeds to mark his ballot in favor of the ticket or candidate of his choice. If he wishes to vote what is ordinarily called a "straight" party ticket he places a cross × in the circle which stands before the party name at the head of such ticket, and with this single mark his vote will be counted for all the candidates named under such heading.

18. Voting a "Mixed" or "Split" Ticket—If the voter desires to vote a "mixed" or "split" ticket—that is, for the candidates of one party for certain offices and for the candidates of another party for other offices—he does not mark either of the circles, but places a cross, ×, in the square opposite the name of each individual candidate for whom he wishes his vote to be counted. Certain other methods of marking are allowable, but those we have given sufficiently illustrate the plan.

19. Depositing the Ballot—Before leaving the booth the voter is required to fold his ballot in such manner as to wholly conceal the vote he has prepared. This being done, he delivers it to the proper officer, who deposits it in the ballot-box.

20. General Election—The general election for State, district, county, and township officers is held each year on the Tuesday next after the first Monday in November.

CHAPTER VIII

DISTRIBUTION OF POWERS

1. Three Departments (36)—The powers of the government are divided into three separate departments: the Legislative, the Executive, and the Judicial. In this respect, the plan or structure of the State government is identical with that of the National government.

2. Departments kept Separate—These departments are to be kept separate and independent of each other, and no officer of one department can lawfully exercise any duty or power belonging to either of the others.

CHAPTER IX

LEGISLATIVE DEPARTMENT

1. General Assembly (37)—The legislative authority of the State is vested in a Senate and House of Representatives. Every law of the State begins with the sentence "BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA."

2. Legislative Sessions (38)—The regular sessions of the General Assembly occur once in two years, beginning on the second Monday in January next after the election of its members. Special sessions may be called at any time by proclamation of the Governor of the State.

3. Election of Representatives (39)—Members of the House of Representatives are chosen every second year by vote of the qualified electors of their respective districts, and their term of office begins on the first day of January following their election. Representatives are chosen at the regular November election in each odd-numbered year.

4. Qualification of Representatives (40)—A member of the House of Representatives must be a male citizen of the United States, twenty-one years of age, and at the time of his election must have been a resident of the State one year, and of the county or district he is chosen to represent at least sixty days.

5. Senators (41)—Senators are chosen for the term of four years. They must be at least twenty-five years of age, and in other respects have the qualifications required for membership of the House of Representatives.

6. Senators Classified (42)—The number of Senators must not be less than one third nor more than one half the number of Representatives, and so classified that one half their number shall be elected every two years.

7. Number of Members—The number of members of the General Assembly is the maximum allowed by the Constitution (72), fifty Senators, and one hundred Representatives.

8. Officers—The Lieutenant-governor of the State is the President of the Senate (43). All other officers are chosen by their respective houses. The presiding officer of the House of Representatives is elected from its own membership, and is known as the Speaker. Each house chooses a chief clerk and assistants, a sergeant-at-arms, doorkeepers, and such other officers as may be found necessary for the proper despatch of business.

9. Contests (43)—Whenever any question is raised as to the qualification or election of a member, the house in which he claims a seat decides it, and from such decision there is no appeal.

10. Quorum (44)—A majority of each house constitutes a quorum to transact business, but a smaller number may adjourn from day to day and compel the attendance of absent members.

11. Rules (45)—Each house adopts its own rules of order and business, keeps a journal of its proceedings, and has power by a two-thirds vote to expel a member, but not a second time for the same offenses. Upon the demand of any two members of either house the vote upon any question shall be taken by yeas and nays, and a record of the same entered on the journals.

12. Privilege (47)—Except for treason, felony, or breach of the peace, Senators and Representatives are exempt from arrest and imprisonment during the session of the General Assembly and while going to and returning therefrom.

13. Vacancies (48)—Whenever a vacancy occurs in either house, the Governor of the State issues a writ calling a special election to fill such vacancy.

14. Public Sessions (49)—The sessions of each house are open to the public except when, in the opinion

of such house, the public interests require secrecy. Secret sessions of either house are very rare. The general welfare is best served when the people are kept fully informed of the manner in which public officers are performing the trust reposed in them.

15. Bills (51)—A proposed law presented by any member of either house, for the consideration of the legislature is called a bill. Bills may be first presented in either house, but are subject to be amended, altered, or rejected by the other.

16. How passed (53)—In order to pass a bill, it must receive the vote or assent of a majority of all the members elected to each house.

17. Approval (52)—When a bill has passed both houses, it is rewritten in full, embodying all amendments and changes, if any, which it has received during its consideration and passage. This copy, known as the "enrolled bill," is signed by the President of the Senate and Speaker of the House, and sent to the Governor for his approval. If the Governor has no objection to the bill he indorses his approval upon it, and the course of legislation as to such act is complete.

18. Where kept—After being signed and approved, the enrolled bill is filed with the Secretary of State and safely preserved. If any dispute afterward arises as to the exact language or reading of the law, an examination of the enrolled bill is the final test. Any mistake made in the enrollment and not corrected before it is signed and approved, can be corrected only by the enactment of another law repealing or amending the defective act.

19. Veto (52)—If the Governor does not approve a bill, it is his duty to return the same to the house in which it was first introduced, with a statement of his

objections. Upon being so returned the bill is reconsidered, and if it is again passed by a vote of two thirds of all the members of each house, it becomes a law notwithstanding the Governor's veto.

20. When Bill is to be Returned (52)—When a bill has been sent to the Governor and he does not return it within three days with his approval or veto, it becomes a law in the same manner as if he had approved it in the usual form. This rule does not apply where the legislature by adjournment prevents the return of the bill within the required time. Very many of the bills which become laws are not passed until near the close of the session, and to give the Governor ample opportunity to examine them he is allowed thirty days in which to approve or disapprove all bills sent to him during the last three days before final adjournment.

21. Publication of Receipts, etc. (54)—As soon as practicable after the close of a session of the General Assembly the laws enacted by it are published in book form. With these laws an accurate statement of the receipts and disbursements of public moneys is given.

22. Impeachments (55)—The only way in which the Governor, or any Judge of the Supreme or District Court, or other State officer can be removed from office for breach of duty is by impeachment. The nature of this proceeding has already been explained (Y. C. B., pages 78 and 82).

The House of Representatives acts as the accuser, and appoints a committee of managers from its membership to prosecute the accused officer, while the Senate sits as a court to hear and decide the case. No person can be convicted on such trial without the concurrence of two thirds of the Senators present.

23. Punishment (56)—The judgment to be entered upon a conviction in such case cannot extend beyond a removal of the convicted person from office, and his disqualification to hold any office of honor, trust, or profit under the State.

24. Purpose—The purpose of an impeachment is not the punishment of crime, but simply the removal of an unfit person from office; and any officer committing a public offense may be indicted, tried, and punished according to the usual forms of law whether he be impeached or not.

25. Members Ineligible (57)—No Representative or Senator can be appointed to any civil office of profit under the State, which has been created or the emoluments of which have been increased during the session of the legislature in which he has served as a member. He who undertakes to legislate for the State should be uninfluenced by considerations of profit or advantage to himself, and this provision is made to remove any temptation, which otherwise might exist on the part of members, to create an office or increase the salary of an office for their own benefit. This restriction does not apply to elective officers.

26. Officers Ineligible to Membership (58)—No person holding any lucrative office under the United States or this State or any other power is eligible to a seat in the General Assembly. A lucrative office is one to which some substantial salary or compensation is attached.

27. Defaulters Disqualified (59)—No person who has been a collector or holder of public moneys can have a seat in either house of the General Assembly until he shall have accounted for and paid into the treasury all

sums for which he is liable. It is obviously just that one who stands an admitted or proved defaulter should not be trusted to legislate for the State while refusing to make restitution.

28. How Money Drawn (60)—No money can be lawfully drawn from the State treasury but in pursuance of appropriations previously made or authorized by law. Any other rule would place too much power in the discretion of individual officers, and open the door to extravagance and corruption in public expenditures.

29. Payment of Members (61)—The members of the first General Assembly received payment at the rate of three dollars per day and an additional allowance for traveling expenses. At present the compensation is \$550 and mileage for each regular session, with a proportionate amount for each special session based upon the number of days in the last preceding regular session.

30. Laws take Effect (62)—Laws enacted at a regular session of the General Assembly take effect on the Fourth day of July next after their passage. Laws enacted at a special session take effect ninety days after the final adjournment of the General Assembly by which they are passed. If the General Assembly deems any law of immediate importance, it may provide that the same shall take effect at once upon publication of the same in one or more newspapers in the State.

31. No Divorce Granted (63)—No divorce can be legally granted nor can any lottery be legally authorized by the General Assembly. In some States it was formerly the rule to grant divorce by special act of the legislature, but experience has shown that such matters can be best adjudicated in the courts.

32. Lotteries Forbidden (64)—Though formerly

recognized by law, lotteries and dealings in lottery tickets are now generally regarded as gambling transactions, having a demoralizing effect upon all who engage therein. They are therefore wholly forbidden in this State.

33. Subject Expressed in Title (65)—Each act or law passed by the General Assembly must embrace but one subject, which shall be indicated or expressed in the title. If any act or bill so passed contains any provision which does not relate to the subject named in the title, then such provision is void. So, too, if the title names or discloses two distinct subjects, then the act is entirely void.

34. Special Laws Forbidden (66)—The General Assembly is forbidden to pass local or special laws for any of the following purposes:

1. For the assessment and collection of taxes;
2. For laying out and working highways;
3. For changing the names of persons;
4. For incorporating cities and towns;
5. For vacating roads, town plots, and public squares;
6. For locating and changing county-seats.

35. Laws to be General (67)—As far as possible all laws must be general, and apply alike to all parts of the State.

36. Extra Compensation (68)—No extra compensation can be made to any officer, public agent, or contractor, nor can there be any lawful appropriation of public moneys for merely local or private uses, without the approval of two thirds of all the members elected to each branch of the General Assembly.

37. Oath of Office (69)—Each member of the General Assembly must take and subscribe an oath or affirmation to support the Constitution of the United

States and of the State of Iowa, and to faithfully perform the duties of his office to the best of his ability. The custom of requiring all newly elected officers to thus solemnly renew their allegiance to their country, and devote their best endeavors to the discharge of their official duties, is one of ancient origin, and is a fitting recognition of the high and important character of the public service.

38. Census (70)—It is the duty of the General Assembly to cause an enumeration or census of the population to be made every ten years. This census is arranged to alternate at equal intervals with the United States census, which is also taken every ten years, thus securing an enumeration of the people every five years. The last State census was taken in the year 1895. •

39. Senatorial Districts (71)—At the first session after a State or National census has been taken the General Assembly fixes the number of Senators and divides the State into a corresponding number of senatorial districts.

40. Membership Limited (72)—The membership of the Senate is limited to fifty and of the House of Representatives to one hundred. These members are apportioned among the counties of the State according to population, but no representative district may contain more than four counties, and each district shall have at least one representative.

41. Ratio—The ratio of representation in the two houses or branches of the General Assembly is usually determined by dividing the whole number of inhabitants of the State by the whole number of members of the house or branch under consideration.

42. Representative Districts (72)—Every county which has a population equal to at least one half the

ratio fixed by law is entitled to one representative, and if its population exceeds such ratio by one half or more than one half, then it is entitled to one additional representative.

43. No "Floating District" (72)—Prior to the adoption of the present constitution districts were sometimes formed on the following plan: Where each one of several counties contained more than the required ratio of population, but not enough more to entitle it to two representatives, such counties were first made separate districts having each one representative, and were then grouped together into another district and given an additional representative. In other words, the excess of population over the ratio in several districts was combined and given representation. Districts formed by such grouping were called "floating districts." They were abolished by the new constitution.

44. When Apportioned (73)—At each regular session the General Assembly fixes the ratio of representation in the House of Representatives, and forms into districts those counties which have not a population sufficient to entitle them singly to representation.

45. Basis of Representation—It will be observed that representation in both legislative branches is apportioned to the number of inhabitants by counties rather than by an absolutely equal apportionment among the inhabitants of the State as a whole. The county is thus in some respects made the unit of representation (74). No district can contain less than one entire county; in forming a district no county can be divided, and the counties forming one district must be contiguous.

46. Elections by General Assembly (75)—In addition to the election of its own officers the general as-

sembly is also charged with the duty of electing Senators of the United States and various State officers. At all such elections the members must vote orally, and the votes so announced must be entered on the journal. The reasons for voting by secret ballot at ordinary elections by the people do not apply to elections by the legislature. The members act in a representative capacity, and it is the right of each member's constituents to know how he discharges the duty confided to him.

CHAPTER X

EXECUTIVE DEPARTMENT

1. The Governor (76)—The supreme executive power of the State is vested in a chief magistrate, whose official title is "The Governor of the State of Iowa."

2. How and When Elected (77)—He is elected by vote of the qualified electors of the State at the election at which members of the General Assembly are chosen, being the regular election in November of each odd-numbered year, and holds his office two years from the time of his installation and until his successor is elected and qualified.

3. Lieutenant Governor (78)—A Lieutenant Governor is also elected at the same time and for the same term as the Governor.

4. Returns of Election (78)—The returns or reports of the votes cast for Governor and Lieutenant Governor, as the same have been collected and counted by the proper officers in each of the several counties of the State, are sealed up and sent to the State Capitol, directed to the Speaker of the House of Representatives.

5. Canvass of the Vote (78, 79)—As soon as the General Assembly is organized by the election of its own officers, the two houses meet in joint session in the representative chamber. The meeting is presided over by the Speaker of the House of Representatives, who opens the sealed returns in the presence of all the members. The votes thus reported for the several candidates for the offices of Governor and Lieutenant Governor are footed up, and those appearing to have received the greatest number for the respective offices are declared duly elected.

6. Tie Decided—Should it happen that a tie is found in the votes of any two or more of the candidates for either office, the Joint Assembly proceeds at once to make an election from the candidates thus standing equal in the popular vote. The possibility of a tie ever occurring in the vote of a great State is very remote.

7. Contested Elections (80)—Much more probable than a tie is a case in which disputes arise over the regularity or the returns of an election.

If the election of a Governor or Lieutenant Governor is thus contested, it is to be decided in such manner as the General Assembly may by law provide. Under the statute now in force, when such a contest is made the Senate and the House of Representatives each selects by lot seven of its own members, and the fourteen persons thus designated constitute a committee or court before which the trial is had. The finding and judgment of the committee is final and conclusive.

8. Eligibility (81)—To be eligible to the office of Governor or Lieutenant Governor, a person must be at least thirty years old, and must have been a citizen of the United States and a resident of the State for the two years next preceding his election.

9. Commander in Chief (82)—The Governor is commander in chief of the militia, army, and navy of the State. The State maintains no army or navy in times of peace.

10. Executive Business (83)—He represents the State in the transaction of all executive business with the officers of government, civil and military. He may also call upon any of the officers of the executive department for reports upon any subject relating to the duties of their respective offices.

11. Filling Vacancies (85)—When any office becomes vacant, and the law has not provided any other method for filling such vacancy, the Governor may fill it by appointment. Such appointment will expire at the next session of the General Assembly or at the next election by the people.

12. Extra Sessions (86)—When in his judgment the circumstances require it, he may convene the General Assembly in special session. When so convened, it is his duty to explain to both houses the reasons why he has called them together.

13. Messages (87)—The Governor sends to the General Assembly at each regular session a formal message, reporting the condition of the State, and making such recommendations as he thinks expedient.

14. Adjourning the Legislature (88)—Should the two houses be unable to agree as to the time for the final adjournment of any session, the Governor has power to declare the General Assembly adjourned to such date as he may think proper, but not beyond the time fixed by law for the meeting of the next General Assembly.

15. Must Hold No Other Office (89)—While exercising the office of Governor or Lieutenant Governor a

person must not hold any other office under the authority of the United States or of this State.

16. Official Term (90)—The official term of the Governor and Lieutenant Governor begins on the second Monday of January next after their election. If for any reason no election is held at the proper time, or if the person elected to either of these offices fails to accept or qualify by taking the prescribed oath, there is no vacancy, because the incumbent of the office for the prior term holds over until a successor is duly elected and qualified.

17. Holding Over—As the General Assembly which canvasses the vote for Governor and Lieutenant Governor does not convene until the second Monday in January, and cannot proceed with the canvass until both houses are duly organized, it rarely, if ever, happens that the newly elected executive is inaugurated promptly on the first day of his official term. It has happened on one or two occasions that a long contest over the election of Speaker of the House of Representatives has delayed the inauguration for weeks, during which time the retiring Governor and Lieutenant Governor have held over.

18. Reprieves and Pardons (91)—The Governor has power to grant reprieves, commutations, and pardons for all offenses except treason and cases of impeachment. In cases of treason he may suspend the execution of the sentence until time is had to report the matter to the General Assembly, which may pardon, commute the sentence, or order it to be carried into effect. He may also remit fines and forfeitures.

19. Words Defined—A reprieve is an executive order postponing or extending the time for carrying into execution the judgment or sentence pronounced by

the court in a criminal case. A commutation is an executive order modifying or changing such judgment or sentence to one of less severity. A pardon is an executive order by which a person convicted of crime is forgiven and wholly relieved from the judgment or sentence pronounced against him. To remit a fine or forfeiture is to relieve the person charged therewith from all liability for its payment.

20. Order of Succession (92)—In case of the death, impeachment, resignation, removal from office, or other disability of the Governor the duties of the office devolve upon the Lieutenant Governor (94). If the Lieutenant Governor, while acting as Governor, be impeached, die, resign, or be otherwise disabled, the president *pro tempore* of the Senate acts as Governor, and should he also be rendered incapable of performing the duties of the office, they devolve upon the Speaker of the House of Representatives.

21. Office Never Vacant—Should the office of Governor ever become vacant, and the State government thus be left without a responsible head or superintendent, much confusion and possible anarchy would follow. Hence the careful provision above mentioned to provide for the succession, should the duly elected incumbent be in any manner removed or disqualified. The instant one incumbent dies or becomes incapacitated the powers of the office devolve upon his successor, and there is never a time when there is not some one to whom the people may look as the chief magistrate.

22. President of the Senate (93)—The Lieutenant Governor acts as president of the Senate, but has no vote in its proceedings except when the Senate is equally divided. In the event of his absence or impeachment,

or when exercising the office of Governor, the Senate chooses a president *pro tempore* from its own membership.

23. Great Seal (95)—The State provides, for the use of the executive, a seal termed The Great Seal of the State of Iowa. This seal is an instrument by which the name and emblem of the State may be impressed upon paper, parchment, or other similar material upon which an official document is written.

24. How Used (96)—When the Governor has occasion to issue a proclamation, or sign a commission, or to execute any other important instrument in his official capacity, he causes an impression of the seal to be made thereon opposite his name. The presence of the seal upon the document is a sign and evidence of its official character and of the genuineness of the Governor's signature.

25. Secretary of State (97)—It is the duty of the Secretary of State to keep and preserve all the original laws and resolutions of the legislature, the original and authentic copies of the State constitutions and of the amendments thereto; also all books, records, maps, registers, and papers lawfully deposited in his office. He countersigns all commissions issued by the Governor, keeps a register of such commissions, and has many other duties of minor importance.

26. Auditor of State (97)—The office of Auditor of State is one of great importance. He is the general bookkeeper and accountant of the State. He keeps strict account of all financial transactions between the State and all other States, governments, officers, and private persons; settles the accounts of public debtors, and all claims against the treasury. No money, however

small the amount, can be lawfully drawn from the State treasury otherwise than upon his written warrant or order. He is also charged with enforcing the laws regulating the business of insurance and of banking within the State.

27. Treasurer of State (97)—As indicated by his title, the chief duty of the Treasurer is to receive, safely keep, and properly account for all moneys of the State. He must make no payments from the treasury but upon the warrant or order of the auditor, and must keep a full and detailed account of all his receipts and disbursements.

28. Executive Council—The Governor, Secretary of State, Auditor of State, and Treasurer of State constitute what is called the Executive Council. This council superintends the State census, has charge and care of the property of the State where no other provision is made therefor, purchases the necessary furniture and supplies for the several State offices, and makes such other lawful expenditures as are found necessary and are not otherwise provided for. It also assesses railroads for the purposes of taxation, and equalizes the general assessment of property as between the different counties of the State.

29. Attorney-General (110)—The Attorney-General is the legal representative or attorney for the State. He is required to attend in person at each session of the General Assembly and give the members and State officers the benefit of his advice upon matters of law. He also represents the State in the courts in all matters affecting its interests.

30. Superintendent of Public Instruction—This officer, commonly known as the State Superintendent, has

general supervision of the county superintendents and of all the common schools of the State. He hears and decides appeals taken from the acts and decisions of county superintendents, attends teachers' institutes, and performs other services calculated to promote the efficiency of our system of public education.

31. Railroad Commissioners—Under an act of the General Assembly the State is provided with a Board of Railroad Commissioners. This board is given authority to inquire into any neglect or violation of the laws of the State by railway corporations, and to examine the condition of railroads and railroad bridges and cause them to be kept in repair. It also hears complaints made against railroad companies on account of overcharges, and in a general way undertakes the adjustment of controversies arising out of the manner in which such companies conduct their business. By a late law the commissioners are given similar supervisory power over express companies.

32. Terms of Office—Except the Judges, Clerk, and Reporter of the Supreme Court, mentioned in a subsequent chapter, the foregoing are all the State officials elected by the people.

The Governor, Lieutenant Governor, and Superintendent of Public Instruction are elected in each odd-numbered year for terms of two years each. The Secretary of State, Auditor, Treasurer, and Attorney-General are elected in each even-numbered year for like terms of two years.

Railroad commissioners are elected for three years each, but the terms are so classified that one is elected each year.

33. Salaries—The salaries attached to the several

State offices which have been considered in this chapter are as follows:

Governor	\$3000
Lieutenant Governor	1100
Secretary of State	2200
Auditor of State	2200
Treasurer of State.....	2200
State Superintendent.....	2200
Railroad Commissioner.....	3000
Attorney-general	1500

In addition to their regular salaries, the Governor, Secretary of State, Auditor, and Treasurer each receive \$500 per year for services upon the Executive Council.

As the State has not yet provided an executive mansion, the legislature usually makes the Governor an additional allowance of \$600 per year for house-rent.

The Attorney-General also receives an additional compensation of five dollars per day while attending court in behalf of the State.

CHAPTER XI

NON-ELECTIVE STATE OFFICERS

1. How Selected—Numerous lesser offices have been created by law and are filled by the appointment of the Governor or by the choice of the General Assembly. The most important of these are Adjutant-General, Board of Health, Commissioner of Labor Statistics, Oil Inspector, Mine Inspector, Dairy Commissioner, and State Librarian, appointed by the Governor; and Wardens of the State Penitentiaries, State Printer, and State Binder, chosen by the General Assembly.

2. Adjutant-General—The Adjutant-General is chief inspector of the State militia, and keeps and preserves the military records of the State. He receives a salary of \$1500 per year.

3. Board of Health—The State Board of Health consists of the Attorney-General, one civil engineer, and seven physicians appointed by the Governor. It has general supervision of matters affecting the health of the citizens of the State. It is also authorized to make such rules and regulations as it may deem necessary for the preservation or improvement of public health, and it is the duty of all other officers of the State, county, township, and city to co-operate in enforcing such rules and regulations. Members of the board receive no salary.

4. Commissioner of Labor Statistics—This officer is most commonly called Labor Commissioner. His principal duty is to collect and publish statistics and information for the benefit of the laboring classes. The salary is \$1500 per year.

5. Oil Inspector—The Oil Inspector, in person or by deputies, is required to examine and test the quality of all petroleum oils offered for sale within the State for illuminating purposes. If any such oils are found to be of dangerous character they are condemned, and it is made unlawful for the owner to sell them or offer them for sale after condemnation by the inspector. The inspector collects certain fees from owners of oils examined and tested by him. Of these fees he retains \$2000 per year as his compensation, and pays the remainder into the State treasury.

6. Mine Inspectors—There are three mine Inspectors. Practical coal-miners are usually selected for this position. It is their duty to inspect the various mines of the State,

and see that the laws regulating the manner of operating them are obeyed. They receive an annual salary of \$1200 each.

7. Dairy Commissioner—The Dairy Commissioner is required to secure as far as possible the enforcement of the law to suppress and punish the fraudulent sale of imitation butter and cheese. His salary is \$1500 per year.

8. State Librarian—The State Librarian has principal charge of the State Library. Salary, \$1200.

9. Wardens—A Warden is selected for each of the two penitentiaries. He is charged with the general management and control of the prison over which he is appointed. Salary, \$2000.

10. Printer and Binder—The State Printer and State Binder, as their titles indicate, print and bind the various books, reports, and public documents issued by the State. They receive compensation in fees according to the work performed.

11. Other Officers—In addition to officers above named we have a Pharmacy Commission, which examines and certifies to the competency of persons wishing to engage in buying and selling drugs and medicines; a Custodian of Public Buildings, who has charge of the State capitol and grounds; a Veterinary Surgeon, who has general supervision of contagious and infectious diseases among domestic animals; a Fish Commissioner, who looks after the preservation of fish in the waters of the State and the enforcement of the laws to regulate fishing; and a Superintendent of Weights and Measures, who has charge of the standards of weight and measure adopted by the State.

12. Trustees, etc.—The government of the State

charitable and educational institutions by boards of trustees and other similar bodies will be hereinafter explained.

13. Historical Department—A Curator of Historical Collections is appointed by the trustees of the State Library. His term of office is six years, and salary \$1200. The duty of this officer is to collect and arrange books, records, and materials illustrative of the history of Iowa and the Western States. He also collects and preserves mementos of the pioneers and soldiers of Iowa.

CHAPTER XII

STATE INSTITUTIONS

1. Educational—The State has established three large schools for the higher education of its young people. These are the State University at Iowa City, the State Agricultural College at Ames, and the State Normal School at Cedar Falls.

2. Reformatory—It has also established an Industrial School for the reformation and education of incorrigible and criminal children under the age of sixteen. This school has two departments or branches—one for boys at Eldora, and one for girls at Mitchellville.

3. Penal—For the detention and punishment of persons convicted of grave offenses against the laws of the State there are penitentiaries at Fort Madison and Anamosa. At the latter place the prison has a separate department for women.

4. Charitable—Iowa has also made generous provision for its needy and afflicted. Its chief benevolent institutions are the

Hospital for the Insane at Mt. Pleasant;
Hospital for the Insane at Independence;
Hospital for the Insane at Clarinda;
Hospital for the Insane at Cherokee;
School for the Deaf at Council Bluffs;
Institution for the Feeble-minded at Glenwood;
College for the Blind at Vinton;
Industrial Home for the Blind at Knoxville;
Soldiers' Home at Marshalltown;
Soldiers' Orphans' Home at Davenport.

5. Supervision—The general supervision of the State University is exercised by a Board of Regents consisting of the Governor of the State and the Superintendent of Public Instruction, together with one person from each congressional district of the State elected by the General Assembly. The governing board of the Soldiers' Home consists of six commissioners appointed by the Governor. All the other State institutions except the penitentiaries are managed by boards of trustees elected by the General Assembly.

CHAPTER XIII

JUDICIAL DEPARTMENT

1. Judicial Power (98)—The judicial power of the State is vested in a Supreme Court, District Court, and such other inferior courts as the General Assembly may from time to time establish.

2. Supreme Court (99)—As originally established, the Supreme Court consisted of three Judges; but under the power given the General Assembly to increase the

number of Judges, the court as now constituted has six members.

3. Election and Term (100)—The Judges are elected by the qualified voters of the State for terms of six years each—the terms being so classified that one Judge is elected each year. The Judge having the shortest time to serve acts as Chief Justice. Under this plan each Judge in turn occupies the position of Chief Justice during the closing year of his term of office. A Judge of the Supreme Court is ineligible to any other State office during the term for which he is elected.

4. Jurisdiction (101)—The Supreme Court has appellate jurisdiction in cases in chancery, and is a court for the correction of errors at law. It has no original jurisdiction, that is, no suit or action of any kind can be first begun in the Supreme Court. All legal proceedings are begun in some of the lower courts, and are brought into the Supreme Court by appeal.

5. Chancery and Law (101)—For the purposes of this work, the distinction between chancery and law may be thus explained: All cases brought in court for a mere money demand, as for instance an ordinary action to collect a debt or recover damages, are triable to a jury and are called actions at law; while all cases in which something more than a mere money judgment is asked, as the granting of a divorce, the foreclosure of a mortgage, or the setting aside a fraudulent deed, are triable to the court without a jury, and are called suits in chancery.

6. On Appeal (101)—On appeal in a chancery case the Supreme Court hears and decides the controversy upon its merits without any reference to the decision from which the appeal is taken; but upon an appeal in

an action at law it considers only the alleged errors or improper rulings of the lower court, and if it finds that a mistake has been made sends the case back for new trial. If no error is found the judgment appealed from is affirmed.

7. Clerk—The Clerk of the Supreme Court keeps the records of the proceedings of that tribunal, and issues all writs and orders necessary to carry its decisions into effect.

8. Reporter—The decisions of the Supreme Court are ordinarily accompanied by written opinions declaring and explaining the law upon the points or questions decided. It is the duty of the Reporter to collect and publish these opinions in book form. The series of books thus issued is known as the "Iowa Reports."

9. Terms of Office—The Clerk and Reporter are elected for terms of four years each, beginning with the year 1874.

10. District Court (102)—The State was originally divided into eleven judicial districts, in each of which was selected one District Judge. The districts now number twenty, are of irregular size, and have from one to four judges each. The court consists of a single Judge. Although there may be two or more Judges in a District, they do not sit together for the trial of cases. In this manner the court may be in session at several different places in the same district at the same time.

11. Election of Judges (102)—Judges of the District Court are elected for terms of four years each by the qualified voters of their respective districts, and during the term for which they are elected are ineligible to any other State office except that of Judge of the Supreme Court.

12. Jurisdiction (103)—The District Court is a court of law and equity. The word “equity” as here used is equivalent to the word “chancery” already explained. Its jurisdiction embraces practically every kind of legal controversy, civil and criminal. All civil actions where the amount in controversy is over one hundred dollars must be brought in the District Court, while those involving a less sum may also be brought there or in a justice’s court, at the option of the complaining party.

13. Conservators of the Peace (104)—Judges of the Supreme and District Court are conservators of the peace throughout the State. “Conservator of the Peace” is an ancient term applied to an officer who has the authority to preserve the public peace, as in the prevention and suppression of rioting, fighting, and brawling.

14. Style of Process (105)—By “process” is meant any writ or order issued by the court commanding a public officer or private citizen to do or not to do some specified act. “Style,” as here used, is the name indicating the authority by which the process is issued and may be enforced. The style of all process is “The State of Iowa.” For example, if a writ is issued commanding the sheriff to arrest a person or to do any other official act it will be directed to him in substantially the following form: “The State of Iowa,—To the Sheriff of Blank County: You are hereby commanded,” etc. All criminal prosecutions are conducted in the same manner.

15. County Attorney (112)—At the general election in each even-numbered year the qualified voters of each county elect a prosecuting attorney, whose duty

it is to represent the State and County in the various courts and to conduct all criminal prosecutions. A criminal prosecution must always be begun in the county where the offense is committed.

16. Salaries—The salaries of the several officers of the judicial department are as follows:

Judge of the Supreme Court.....\$4000

Judge of the District Court 2500

Clerk of the Supreme Court..... 2200

Reporter of the Supreme Court 2200

The compensation of county attorneys is fixed by the Board of Supervisors in each county, and varies from \$300 to \$1500, according to the population and amount of business to be performed.

17. Grand Jury (114)—At each regular term of the District Court a Grand Jury is impaneled. It may consist of any number of persons, not less than five nor more than fifteen, as the General Assembly may by law provide.

18. Duty of Grand Jury—It is the duty of the Grand Jury to inquire into all indictable offenses committed within the county and to return indictments against the persons believed to be guilty thereof, if the evidence obtained is sufficient to justify such action. As elsewhere explained, an indictment is simply an accusation made by the Grand Jury charging the person therein named with some specific offense. All offenses the punishment of which may exceed a fine of one hundred dollars or thirty days in the county jail are indictable.

19. Trial Jury—When a person has been indicted and arrested he enters a plea of "guilty" or "not guilty" to the charge made against him. If the plea is

“not guilty,” he is put upon trial. For this purpose a Trial Jury is formed entirely distinct from the Grand Jury. All jurors must be citizens, residents, and lawful voters in the county where they serve.

20. Administration of Justice—The method of administering justice in criminal cases may be thus briefly stated: The Grand Jury accuses, the Sheriff arrests, the County Attorney prosecutes, the Trial Jury renders the verdict “guilty” or “not guilty,” and the Judge enters judgment according to the verdict so rendered. The Judge also presides at the trial, rules upon objections to the introduction of evidence, and decides all questions of law.

CHAPTER XIV

THE STATE MILITIA

1. Of Whom Composed (115)—All able-bodied male citizens of the State, between the ages of eighteen and forty-five years, constitute the Militia, and may at any time be called upon by the State to be organized into companies and regiments, and to receive military drill and instruction.

2. Not Organized—The power of the State in this respect has never been exercised. The danger of war is considered too remote to justify the annoyance and expense of maintaining a general organization, and the militia remains an unorganized but powerful reserve force, liable to be called into service at any time when the public safety seems to require it.

3. National Guard—A small volunteer force known as the National Guard is authorized by the laws of the

State. It is at present organized into two brigades, each commanded by a brigadier-general, with the usual regimental and company officers.

The Governor is commander-in-chief, and may call out any part or all of the Guard whenever it is necessary to repel invasion, or to prevent or suppress insurrection, riot, or other breach of the peace.

4. Exemption (116)—Persons who are conscientiously opposed to bearing arms may be exempted from military duty in times of peace by payment of such reasonable commutation as may be provided by law.

5. Election of Officers (117)—All commissioned officers of the militia, except staff officers, are elected by the persons liable to military duty, and receive their commissions from the Governor.

CHAPTER XV

STATE DEBTS

1. The Public Credit (118)—The State cannot lawfully give or lend its credit to any individual, association, or corporation. It is also forbidden to assume the debts or liabilities of any individual, association, or corporation unless incurred in time of war for the benefit of the State.

2. Limitation of Indebtedness (119)—Debts may be contracted to meet necessary expenses which have not been otherwise provided for, or to supply any deficiency in the ordinary income of the State, but the total amount of such indebtedness must never exceed two hundred and fifty thousand dollars.

3. A Wise Restriction—The wisdom of this constitutional safeguard against burdensome public debt has been demonstrated by the experience of many other States which, in the absence of such limitation, have given the aid of their credit to railroad and other private enterprises, and indulged in extravagant expenditures until brought to the verge of bankruptcy.

4. Losses to School Fund (120)—As explained in a subsequent chapter, the State has provided certain funds, the income from which is devoted to the support of its schools. If any loss occurs to these funds by the fraud, wrong, or mismanagement of the agents or officers in charge of them, such loss is to be treated as a permanent debt of the State, upon which not less than six per cent interest shall be paid.

5. War Debts (121)—Debts may also be contracted beyond the limit named in the second paragraph of this chapter whenever such step is necessary to repel invasion, suppress insurrection, or defend the State in time of war. Moneys raised under the extraordinary power thus given must not be applied to any other purpose whatever.

6. Other Debts (122)—Other debts may be authorized by law for some single specified work, when the law providing for such work also provides for a tax with which to meet the expense incurred, and the same has been approved by a vote of the people.

No debt has ever been contracted by the State under this provision.

CHAPTER XVI

CORPORATIONS

1. Word Defined—A corporation is ordinarily an association of several persons organized in the manner prescribed by law and given power to act and transact business as a single individual. A single individual may also become incorporated by complying with certain legal requirements.

2. Corporations for Profit—A corporation for profit is one organized for the purpose of carrying on a business or enterprise for the pecuniary benefit of its members. Each member puts in such definite portion or share of the capital stock as he may subscribe, and beyond the amount so subscribed is not personally liable for any of the corporate debts.

3. Other Corporations—Corporations are also frequently organized for religious, educational, or social purposes. Many churches, lodges, societies, schools, and like organizations become corporate bodies of this class. Such corporations ordinarily have no capital stock.

4. Corporate Name—Each corporation adopts a distinctive name, by which it is known and in which all its business is transacted.

5. Utility of Corporations—Nearly all railroads, canals, and other great works of internal improvement have been constructed by corporations. Enterprises of this kind require such vast sums of money and are subject to so great risks that few if any men could be found with sufficient capital to undertake them, or, having the

capital, would consent to so hazard it. By the use of corporations, however, a large number of people unite their comparatively small contributions into a large aggregate sum, and thus accomplish great works which otherwise would never be undertaken. In the same manner the most of the immense manufacturing and business enterprises of modern times are rendered possible.

6. Subject to Control—In view of the valuable privileges conferred upon corporations, and of the great power and influence exercised by aggregated wealth, the State reserves the right to regulate the manner in which they may be formed and in which they shall transact business. The State may also by proper proceedings in court have a corporation dissolved and its right to do business annulled whenever it fails to observe the law.

7. How Created—It was formerly the practice in most States to create each corporation by special act of the legislature. This plan was found to be productive of abuses and sometimes of corruption among legislators, and is now quite generally abandoned. Our own Constitution (125) forbids special legislation of this kind. A general law has been enacted prescribing certain simple rules and regulations by which any person or persons may become incorporated.

8. Property Taxable (126)—The property of corporations is taxable in the same manner as the property of individuals.

9. State not to be a Stockholder (127)—The State cannot become a stockholder in any corporation, nor can it lawfully assume the debt of any corporation unless incurred in time of war for the benefit of the State.

10. Municipal Corporations (128) — Counties, cities, towns, and school districts, into which the State is

divided for the purposes of local government, are called political or municipal corporations, though the latter term is more often confined to incorporated cities and towns. All such corporations are forbidden to become stockholders in any banking corporation, directly or indirectly.

11. Banking Corporations (129 to 136)—Sections 5 to 12 inclusive of Article 8 of the Constitution, provide the manner in which corporations with general banking powers may be created. The banks here referred to are such as have the right to issue bills or notes to be circulated as money; but under the law of the United States providing for the national banking system, State banks of issue ceased to be profitable and no longer exist. These constitutional provisions are therefore of no present importance. Banks of deposit and exchange are provided for by act of the General Assembly.

12. Transportation Companies—Railroads, express and other corporations organized for the purpose of carrying passengers and freight are sometimes spoken of as public corporations. Though owned by private parties their duties are of a semi-public nature, and the State assumes the right to supervise and regulate their dealings with the people. We have already noticed how this supervision is exercised through the Board of Railroad Commissioners.

13. Commerce—All buying and selling in which goods or merchandise is transported from one town or place to another is commerce. The Constitution of the United States (Y. C. B. 109) reserves to Congress alone the power to regulate commerce between the States. The State therefore cannot interfere with any corporation in the business of carrying passengers or freight from any point without the State to any point within it, or from

any point within the State to any point without, except where Congress has expressly relinquished its supremacy.

14. How Regulated—For the general regulation of commerce between the States, Congress has enacted the Interstate Commerce Law, and provided for a national Board of Railway Commissioners appointed by the President of the United States. The State has supreme authority over all traffic between the different cities, towns, and neighborhoods within its own borders.

CHAPTER XVII

PUBLIC EDUCATION

1. Obsolete Provisions (138)—Sections 1 to 15, inclusive, of Article 9 of the Constitution created a State Board of Education, consisting of the Lieutenant-Governor and one additional member from each judicial district.

The General Assembly was given power to change or abolish this board at any time after the year 1863, and did in fact abolish it in 1864, since which time the sections above mentioned have been inoperative.

2. School Lands—By the liberality of the Government of the United States, large grants of public lands were many years ago made to the State for the benefit of its schools. Some of these lands were appropriated to the special use of the State University, others to the State Agricultural College, and the remainder to the common schools.

3. Educational Funds—The moneys arising from the sales of these lands constitute perpetual or perma-

nent funds, which are kept invested in interest-bearing securities, and the income thus realized is distributed at stated periods to the several beneficiaries.

4. Escheats (141)—When a person dies leaving no will or heir, his property goes to the State, and becomes a part of the permanent fund for the support of common schools.

Property thus coming to the State is called in law an escheat.

5. Temporary School Fund — All forfeitures and fines, and the proceeds of the sales of lost goods and estray animals, are paid into the county treasury and constitute the Temporary School Fund. All moneys in this fund are distributed among the several school districts of the county at least once in each year.

6. How Distributed (145) — The interest derived from the Permanent School Fund, together with the moneys in the Temporary Fund, are distributed to all the school districts in proportion to the number of youths between the ages of five and twenty-one years.

7. State University—It is provided by law that “the object of the State University shall be to provide the best and most efficient means of imparting to young men and women on equal terms, a liberal education and thorough knowledge of literature, the arts and sciences, with their varied applications.”

8. Preparation Required—So far as practicable, the courses of study in the University begin where the same are completed in the high schools; and no student can be admitted who has not completed the elementary studies in such branches as are taught in the common schools.

9. State Agricultural College—This institution, now

commonly known as the "State College," provides for the student a broad, liberal, and practical course of study, in which the leading branches of learning relate to agriculture and the mechanic arts. It also embraces such other lines of study as will most practically and liberally educate the agricultural and industrial classes in the several pursuits and professions of life, including military tactics.

10. State Normal School—The State Normal School is established and maintained for the special instruction and training of teachers for the common schools.

11. Work Accomplished—Each of these schools has been very successful in its special line of work. All have a liberal attendance of students, and many of their graduates have achieved a high degree of success and fame in the various pursuits of life.

12. County High-Schools—Each county may, by complying with certain conditions, establish a High School for the purpose of affording advanced pupils better educational facilities than are ordinarily found in district schools.

13. High-School Departments—For some reason very few counties in the State have ever availed themselves of the benefit of this law, but most of the graded schools in cities and towns of any importance have high-school grades or departments, affording all the advantages which could be derived from a county school.

14. School Districts—The organization and government of School Districts will be considered in a subsequent chapter.

CHAPTER XVIII

CONSTITUTIONAL AMENDMENTS

1. How Proposed (146)—Any amendment to the Constitution may be proposed in either house of the General Assembly, and, if agreed to by a majority of all the members elected to each house, it is then laid over to be acted upon by the next General Assembly. Before the next election notice of the proposed amendment is published throughout the State, and if the General Assembly next elected agrees to it by a like majority, the question is finally submitted to a vote of the people. If these various steps have been regularly pursued, and a majority of those voting upon the question is found to be in favor of the proposition, the amendment becomes part of the Constitution.

2. Why these Formalities—As the standard by which all legislative acts, judicial decisions, and private rights are to be determined, it is a matter of great importance that the Constitution be as fixed and stable as possible, and that all proposed changes be thoroughly discussed and understood by the people. By the plan above outlined, at least two years are given for the discussion and examination of a proposed amendment, and an effectual guard is thus created against hasty and ill-advised changes.

3. Separate Vote (147)—If two or more amendments are submitted at the same time, it must be done in such manner that they can be voted upon separately. Of several amendments the voter may desire to support

some and oppose others, and this provision for a separate vote enables him to do so.

4. Constitutional Convention (148)—Once every ten years, beginning with the year 1870, the question "Shall there be a Convention to revise the Constitution and amend the same?" is submitted to the voters of the State.

The General Assembly may also submit the question at any time. If a majority of votes is cast in the affirmative, the General Assembly at its next session provides for the election of delegates to such convention by the duly qualified voters of the State.

5. Work of Convention—The delegates thus selected meet and make such revision of the Constitution as they deem wise; but before their work is of any validity it must be approved by the voters of the State at an election held for that purpose. Since the adoption of the present Constitution, in the year 1857, no convention has been called.

6. Amendments Adopted.—Prior to the year 1863 negro slavery prevailed in nearly one half of the nation, and even in the free States there were strong prejudices against conceding equal political rights to colored citizens. Under these influences the Constitution of the State, as originally adopted, excluded this class of people from the right of suffrage (30) and the right to membership in the General Assembly (40, 41). It also excluded them from enumeration in the census (70), from representation in both houses of the General Assembly (71, 72), and from the State militia (115). All these discriminations were abolished by amendments adopted in the year 1868.

7. Other Amendments—Several other amendments

have been adopted, and will be found clearly noted in their proper connection in the text of the Constitution (see Chapter I).

CHAPTER XIX

MISCELLANEOUS PROVISIONS

1. Justices' Courts (149)—The jurisdiction of Justices of the Peace extends to all civil cases within their respective counties, where the amount in controversy does not exceed one hundred dollars, except cases in chancery. By consent of the parties the jurisdiction may be extended to any amount not exceeding three hundred dollars.

2. Jurisdiction Defined—By the word "jurisdiction" as applied to courts, is meant the authority to hear, try, and determine cases and proceedings brought for the settlement of legal controversies, and the power to declare and enforce the law.

3. New Counties (150)—No new county can be created having less than four hundred and thirty-two square miles. This area is the equivalent of twelve townships, according to the government survey. Counties are organized for local government and local convenience, and to make them unnecessarily numerous would increase the public expense for court-houses and salaries of county officers, without compensatory advantages.

4. Exception (150)—Worth county and the counties west of it along the northern boundary of the State are excepted from this rule, and may be organized with an area less than four hundred and thirty-two square miles

This exception is made because the north boundary of the State (which is forty-three degrees and thirty minutes north latitude) lies a little south of the north line of the surveyed townships along that border. This discrepancy places a small portion of each of these bordering townships over the line in the State of Minnesota, but the larger fractions left under the jurisdiction of Iowa are treated as full townships for the purposes of county organization.

5. Limit of Indebtedness (151)—No county, city, town, or school district is allowed to become indebted in any manner or for any purpose to an amount exceeding five per centum of the assessed value of the taxable property within its jurisdiction. Any contract or promise to pay in excess of this limit is void, and cannot be enforced at law.

6. Oath of Office (153)—Every person elected or appointed to any office is required before entering thereon to take an oath or affirmation that he will support the Constitution of the United States and of the State of Iowa, and will faithfully, impartially, and to the best of his ability discharge the duties of such office.

7. Vacancies in Office (154)—A vacancy occurring in any elective office is, as a rule, temporarily filled by appointment. The person appointed holds only until the next regular election, at which time some one is elected to fill the place. He who is thus elected to fill a vacancy holds the office for the remainder of the unexpired term.

8. Appointments—Appointments to fill vacancies are made as follows:

By the Supreme Court, in the offices of clerk and reporter of the Supreme Court;

By the Governor, in all other State offices and in the membership of any board or commission created by the State;

By the Board of Supervisors, in all county offices except in the office of supervisor, which is filled by the county auditor, clerk, and recorder;

By the Township Trustees, in all township offices except where the offices of all three trustees are vacant, when the township clerk may appoint;

By the Mayor or by the Mayor and Council, in all municipal offices except in cases where a special election is provided for by law.

A vacancy in either house of the General Assembly cannot be filled by appointment, but in such case the Governor issues an order for a special election by the people of the district where the vacancy exists.

9. State Capital (156)—The seat of government is permanently established at Des Moines, and the State University at Iowa City. Neither can be changed or removed to any other location without a constitutional amendment.

10. Schedule (157-159)—Article 12 of the Constitution, entitled "Schedule," is in effect an appendix to the main body of the instrument prescribing when and how the Constitution should take effect, the time of holding the first elections thereunder, and other similar matters whose temporary purposes have been served and require now no special consideration.

CHAPTER XX

COUNTIES AND COUNTY GOVERNMENT

1. Number and Area—The State is divided into ninety-nine counties. With a few exceptions these counties are rectangular in form and contain either twelve or sixteen surveyed townships, each six miles square.

2. County-seats—Each county has selected some convenient town or site as its seat of local government. At this place, known as the "county-seat," are erected a court-house and offices for the several county officers. Here the terms of the District Court are held, the records of the county are kept, and the county business generally is transacted. County-seats may be changed or re-located by vote of the people at an election properly called for that purpose.

3. County Officers—The officers of the county are Supervisors, Auditor, Treasurer, Recorder, Clerk of the District Court, Sheriff, County Attorney, Superintendent of Schools, Surveyor, and Coroner.

4. Supervisors—The general supervision and management of county affairs is intrusted to a Board of Supervisors. The board regularly consists of three persons, but by vote of the people the membership may be increased to five or seven. They are elected for terms of three years each, but the terms must be so arranged that at least one Supervisor may be elected each year.

5. Duties of Board—The Board of Supervisors is charged with numerous and important duties, the most important of which are as follows:

- (a) To manage and control the county property.
- (b) To settle with all county officers concerning the receipts and expenditures of their several offices.
- (c) To build and keep in repair the necessary county buildings and all county bridges.
- (d) To establish, change, and vacate public roads.
- (e) To provide for the relief and support of the poor of the county.
- (f) To examine all claims made against the county and allow such as they find to be just.
- (g) To canvass the votes of the county at general and special elections; and
- (h) To represent the county in all litigation, and in general to protect its rights and interests as circumstances may seem to render necessary.

6. Meetings—Regular meetings of the Board of Supervisors occur on the first Monday in January, April, June, and September of each year. It meets also on the first Monday after a general or special election and canvasses the vote of the county. Special meetings may be held from time to time in the discretion of the Board.

7. Auditor—The County Auditor acts as clerk of the Board of Supervisors, records its proceedings, signs all orders or warrants upon the Treasurer for the payment of claims allowed by the Board, and makes out and delivers to the Treasurer the yearly tax-lists. He is the general accountant or bookkeeper of the county, and keeps a detailed account and record by which the board may settle with all other county officers and agents. He also has special care and charge of the court-house, subject to the direction of the Supervisors, and performs such other services as may be required of him by law.

8. Treasurer—The Treasurer receives all money

payable to the county, and disburses it only on the proper warrant or order signed by the Auditor and sealed with the county seal. He also collects the taxes, and keeps an exact and faithful record of all his receipts and payments of public funds.

9. Recorder—The Recorder copies in full and at length upon the books of his office all contracts, deeds, mortgages, and other written instruments delivered to him for that purpose, which in any way transfer, change, or affect the title to property situated within the county.

10. Clerk—The Clerk keeps a record of all the proceedings of the District Court, and issues all writs, warrants, and process required by law or by order of the court in such proceedings. He issues licenses for all marriages to be solemnized, and keeps a register of all births and deaths within the county.

11. Sheriff—The Sheriff, by himself or deputy, serves all writs and other legal process issued to him by the court or other competent authority. He has charge of the county jail, and is required to receive and safely keep all persons duly committed to his custody until they are lawfully discharged.

12. Conservator of the Peace—It is his duty to prevent and suppress all violence and public offenses of every kind, and when necessary may call to his aid any citizen or citizens of the county. A citizen of the county when called upon by the Sheriff to assist him in preserving the peace or making an arrest cannot lawfully refuse so to do.

13. County Attorney—As we have already noted in the chapter upon the Judicial Department of the State, the County Attorney is the public prosecutor or attorney for the State in all prosecutions for crime committed

within his county. It is also his duty to appear for and defend the county in all civil litigation, and give the benefit of his advice to the county officers in matters relating to their official duties.

14. Superintendent of Schools—As his title implies, the Superintendent has general supervision of the public schools. He examines applicants for license to teach, visits the schools from time to time, holds teachers' institutes, and makes annual report to the State Superintendent as to the state and progress of public education in his county.

15. Decides Appeals—The County Superintendent is also authorized to hear and decide all appeals properly taken from any order or decision of a district Board of Directors.

16. Surveyor—The County Surveyor surveys lands and establishes boundary lines and corners whenever called upon for that purpose by persons interested therein. Surveys made by him, within his county and properly recorded, are presumed to be correct until proved to be otherwise.

17. Coroner—The Coroner is required to hold inquest upon the dead bodies of such persons as are supposed to have died by unlawful means. He also performs the duties of sheriff in the absence, disability, or disqualification of that officer.

18. Terms of County Officers—County officers, except members of the Board of Supervisors, are chosen for terms of two years each,—the Auditor, Recorder, Clerk, and County Attorney being elected in the even-numbered years, and the Treasurer, Sheriff, Superintendent of Schools, Surveyor, and Coroner in the odd-numbered years.

19. Eligibility of Women—Women are by law made eligible to the offices of Recorder and Superintendent of Schools.

20. Salaries and Compensation—The salaries of county officers are in some instances graded according to the population of the counties; in other instances are left, in whole or in part, to the discretion of the Board of Supervisors; and in still others are wholly dependent on the fees collected.

The following list shows with substantial accuracy the compensation received:

Auditor	\$1200 to \$1500
Treasurer.....	1200 to 1500
Clerk	1100 to 1500
Attorney.....	300 to 1500
Sheriff	2300 to 3000
Recorder.....	1500
Superintendent	4 per day
Surveyor	4 “ “
(to be paid by those who employ his services).	
Coroner	Fees (according to the services performed).

The Sheriff and Recorder look wholly to the fees collected by them for their salaries, but if the amount so collected by either of them, in any one year, is in excess of the limit above mentioned, the excess must be paid into the county treasury.

CHAPTER XXI

TOWNSHIPS AND TOWNSHIP GOVERNMENT

1. Congressional Townships—When the lands embraced within the State of Iowa were still owned by the Government of the United States, they were surveyed, in obedience to an act of Congress, into tracts, or blocks, six miles square, these blocks being in turn subdivided into smaller blocks of one mile square. Each of the large blocks is called a "Congressional township" or a "township according to government survey." The smaller blocks or subdivisions are called "sections." As shown in the preceding chapter, the boundary-lines of the counties are usually made to coincide with some of these lines of the government survey.

2. Civil Townships—For the purposes of greater convenience of local or neighborhood government, each county is divided into smaller parts, each of which is called a township. To distinguish these townships from those of the government survey, they are usually spoken of as "civil townships."

In most counties each congressional township is organized into a civil township, but there are quite frequent exceptions to this rule. The division of the county into townships is made by the Board of Supervisors, which has the power to increase the number or change the boundaries in such manner as it may deem wise.

3. Township Officers—In each civil township there are three Trustees, one Clerk, two Justices of the Peace, two Constables, one Assessor, and one or more Road Supervisors.

4. Trustees—The township Trustees act as overseers of the poor, equalize the assessment of property for the purposes of taxation, decide controversies as to boundary fences between adjacent landowners, assess damages done by trespassing animals, and serve as judges of election. They also act as a board of health, and perform other duties as may be required by law.

5. Justices of the Peace—A Justice of the Peace has authority to sit as a court for the trial of all cases coming within the limit of his jurisdiction. As has been before explained, this jurisdiction in civil matters is restricted to cases where the amount in controversy does not exceed one hundred dollars, and in criminal matters to cases where the punishment cannot exceed a fine of one hundred dollars or thirty days' imprisonment in the county jail.

6. Other Powers—He may also solemnize marriages, take the acknowledgment of deeds and other written instruments, administer oaths, and, in the absence of the coroner, may hold inquests upon dead bodies when the circumstances call for such investigation.

7. Constables—The principal duties of Constables are to serve notices and execute warrants and writs issued by Justices of the Peace. They are also required to serve all notices and other process lawfully directed to them by the Township Trustees, Township Clerk, or by any court.

8. Clerk—The Clerk keeps a record of the proceedings of the Township Trustees, acts as clerk of election, makes out the road-tax lists for the use of the Road Supervisors, and receives and disburses the road tax collected by the County Treasurer for the use of his township.

9. Assessor—It is the duty of the Assessor to make and deliver to the County Auditor a list of all taxable

property in his township, together with his estimate of the value of each item of such property. The value thus fixed by him, after being revised and equalized by the Township Trustees, is the basis upon which all taxes are levied. Personal property is thus assessed every year, but real estate is assessed once in two years.

10. Road Supervisors—Each township is divided by the Trustees into districts of convenient size, in each of which a Road Supervisor is elected. This supervisor has charge of the improvement and repairs of the public roads in his district. He expends the moneys collected for road purposes, and when any part of the road tax is payable in labor he calls out the persons liable to such duty and directs the manner in which it shall be performed.

CHAPTER XXII

CITIES AND TOWNS

1. Incorporation—Until incorporated, a city, town, or village is considered simply as a part of the civil township in which it is situated, and has no distinct or separate local government. Incorporation is a legal proceeding by which such city or town is granted certain rights and privileges of local self-government.

2. How Obtained—Incorporation is obtained by applying to the District Court and obtaining an order for an election to be held in the territory proposed to be incorporated. If a majority of votes is cast in its favor and the proceedings are approved by the court the incorporation is complete, and another election is called for the selection of officers. When spoken of as a class,

cities and towns thus set apart and granted powers of local self-government, are usually called Municipal Corporations.

3. Classes—The municipal corporations of this State are—

1. Cities of the first class;
2. Cities of the second class;
3. Towns. Town sites platted and unincorporated are called villages.

4. Town—A municipal corporation having less than two thousand inhabitants is called a Town.

5. Elective Officers—The elective officers of a town are one Mayor, one Clerk, one Treasurer, one Assessor, and six Councilmen.

The council may by ordinance provide for the election of such other subordinate officers as it may deem necessary for the purposes of good government.

6. Mayor—The Mayor is the chief executive officer of the town, presides at the meetings of the council, and has a vote on all questions coming before it. He is also a magistrate with the powers of a justice of the peace, and has exclusive jurisdiction to try persons charged with violation of the town ordinances.

7. Clerk—The Clerk keeps a record of all the proceedings of the council. He has no vote in the council.

8. Treasurer—The Treasurer has custody of all moneys belonging to the town, and pays them out upon the order of the council and warrant of the Clerk.

9. Assessor—The duties of the Assessor within the town are similar to those of a township assessor, which are explained in the preceding chapter. An Assessor is also elected in each city of the first and second class.

10. Marshal—The Mayor appoints a Marshal, who has the powers of a constable. He executes the process of the Mayor, and preserves the public peace and order within the limits of the town.

11. Powers of Town—Every town has power to prevent and suppress nuisances, riots, and breaches of the peace, to lay out and improve streets, to provide regulations against danger from fire, to prevent animals from running at large, to construct or permit the construction of water-works, and in general to do all those things which are necessary and reasonable to preserve the public peace and promote the safety and convenience of its inhabitants.

12. Terms of Office—The six councilmen of an incorporated town are elected for terms of three years, but are so classified that two are chosen at each annual election. The other elective officers serve terms of two years each.

13. Ordinances—The local laws and regulations enacted by the council are called ordinances. Persons violating these ordinances may be punished by fine or imprisonment.

14. Cities of the Second Class—Municipal corporations having more than two thousand and less than fifteen thousand inhabitants are cities of the second class.

15. Powers—Cities of the second class have all the powers and privileges of towns, together with certain additional privileges relating to public improvements and the regulation of business done within the city limits.

16. Wards—Each city is subdivided into smaller parts called wards. In each ward the qualified voters elect two members of the city council for terms of two

years—one being elected each year. Members of the council are commonly called councilmen or aldermen.

17. Mayor—The Mayor of a city of the second class is elected for two years. He presides at the meetings of the council, but has no vote upon questions coming before it except in cases of a tie. He is also a magistrate with the same powers as the mayor of an incorporated town.

18. Solicitor—The City Solicitor is also elected for two years. He is the legal adviser of the city and its officers, and represents its interests in all litigation.

19. Clerk—The Clerk is appointed by the council, and performs duties similar to those required of the Clerk of a town.

20. Marshal, etc.—A Marshal, and as many policemen as are deemed necessary are appointed by the Mayor.

21. Cities of First Class—All cities having more than fifteen thousand inhabitants rank as cities of the first class.

22. Officers—The officers of a city of the first class are Mayor, Councilmen, Solicitor, and Treasurer, having in general substantially the same powers as are exercised by officers of like name in cities of the second class. In addition to those named, each city of this class elects an Auditor, who keeps the books and accounts of the corporation; a Police Judge, who hears and decides cases arising under the city ordinances; and an Engineer, who surveys and determines the grades of streets and does other skilled work of that nature. In addition to ward councilmen each city of the first class elects two councilmen at large.

23. Police—The Mayor of a city of the first class appoints the members of the police force, including a

Marshal or Chief of Police, who hold their office during his pleasure.

24. Superior Court—Any city containing a population of seven thousand or more may by vote of its qualified electors establish a Superior Court. The judge of this court is elected at a regular city election, and holds his office for a term of four years.

25. Jurisdiction—The Superior Court has exclusive jurisdiction to try and determine all actions for violation of the city ordinances. It also has the power and authority usually exercised by justices of the peace, and in most civil matters exercises equal jurisdiction with the District Court.

26. Salary of Judge—A judge of the Superior Court receives a salary of \$2000 per year, one half of which is paid from the city treasury and the other half from the county treasury.

27. Number—Council Bluffs, Cedar Rapids, and Keokuk are the only cities in the State now maintaining a Superior Court.

28. Annual Elections—Except in some cities under special charters, the regular annual election for all city and town officers takes place on the last Monday in March.

29. Special Charters—It will be remembered that the present Constitution of the State (66) prohibits the incorporation of cities by special act of the Legislature, but at the time this provision was adopted a few of the older cities had already been incorporated by that method.

Of these cities, Dubuque, Keokuk, Davenport, and Cedar Rapids still retain their special charters granted under the old Constitution, but their government does not differ in essential particulars from that of other cities of the first class.

30. Abandonment—Any city or incorporated town may abandon its corporate government by vote of its qualified electors at an election called for that purpose.

If at such election two thirds of the votes cast are in favor of the proposition and all corporate debts are paid, the corporation will be discontinued.

CHAPTER XXIII

SCHOOL DISTRICTS

1. Districts—Each civil township is a School District and is ordinarily subdivided into smaller parts called sub-districts. The township when spoken of in its capacity as a school district is called a School Township.

2. Directors—Annually on the first Monday in March each sub-district elects a sub-director and the sub-directors thus elected together form a Board of Directors for the district township.

3. Government—The management of district affairs is exercised in part by the voters assembled in annual meeting and in part by the board of directors.

4. Annual Meeting—On the second Monday in March of each year the voters of the district township convene in a mass or general meeting. When thus legally assembled they consider and determine many matters relating to district government, among the most important of which is the voting of taxes for the construction of schoolhouses and for the purchase of grounds.

5. Organization of Board—The Board of Directors holds regular meetings on the third Monday of March and third Monday of September in each year. At the March meeting annually the members elect a president

from their own number ; and at the September meeting they also elect a secretary and a treasurer from the township at large.

6. Powers of Board—The Board of Directors makes all contracts, purchases, sales, and payments necessary to carry out any vote of the district, and, subject to the powers vested in the annual meeting of the voters, it has full charge and control of the schools and school property within the district.

7. Powers of Sub-Directors—Under such reasonable rules and regulations as the board may adopt, each sub-director provides fuel for the school in his sub-district, employs teachers, keeps the buildings in repair, and has general control and management of the school-house.

8. Independent Districts—Any city, town, or village may be made into a separate Independent School District by vote of the people at an election called for that purpose. The sub-districts of a district township may also become Independent Districts when a majority of the votes cast in each sub-district is in favor of such independent organization. As a general rule all cities and towns are organized as Independent Districts, while in agricultural communities the district township system is retained.

9. Board of Directors—Subject to the rights of the voters in annual meeting, the government of an independent district is vested in a Board of Directors. In cities of the first class the board of directors of an independent district has seven members, in all other cities and towns five members, and in rural independent districts three members. They are chosen for three years each and their terms are so classified that at least one is elected each year.

10. Officers—The directors elect a President from their own number, and a Secretary and Treasurer from the district at large, the same as is done in district townships.

11. Election—The regular annual election and the annual meeting of the voters in each independent district occur together on the second Monday in March.

12. Schools—Under the system prevailing in this State every sub-district and independent district is supplied with at least one common school. The number of schools in each sub-district and independent district, and the location of the schoolhouses, are left to the discretion of the Board of Directors.

13. School Year—Twenty-four weeks of five days each constitute a school year. During this period a school must be taught in each sub-district and independent district for the instruction of children and young people between the ages of five and twenty-one years. In actual practice most of the schools of the State are in session from thirty-two to forty weeks in each year.

14. Branches Taught—In these schools pupils are instructed in reading, writing, spelling, arithmetic, geography, grammar, physiology, hygiene, and elementary civics and economics, with such additional branches as the voters may determine upon at their regular annual meeting.

15. How Supported—The moneys arising from the permanent and temporary school funds of the State, though of great importance, furnish but a comparatively small part of the support of the common schools. The remainder required for such support is supplied by taxation in the several districts according to their needs.

16. Schools Free—The schools of each district are entirely free to all persons of the proper age residing therein. If, however, there are two or more schools in the district where the pupil resides, the directors are authorized to decide which school he may attend.

CHAPTER XXIV

TAXATION

1. Assessment—We have already learned that property is assessed or valued for taxation by Assessors elected for that purpose in the several townships, towns, and cities of the State.

2. Equalization—When the assessors have completed their work the lists are submitted for examination and correction to the township trustees, or town or city council, as the case may be, acting as a Board of Equalization. The board also hears and decides complaints of those who dispute or criticise the estimates made by the assessors.

3. State Taxes—The rate of taxation for State purposes is determined by the General Assembly, and notice thereof is transmitted by the State Auditor to each County Auditor.

4. County Taxes—The rate for county purposes is fixed by the Board of Supervisors in each county.

5. School Taxes—Taxes for school purposes are usually divided into three accounts or funds, known respectively as the Schoolhouse, Teachers', and Contingent Fund. The tax for the Schoolhouse Fund is voted by the people of each district at their annual meeting, while the amounts required for the other funds are estimated by

the Board of Directors—all of which is certified by the directors to the County Auditor.

6. Municipal Taxes—Taxes for town and city purposes are fixed by the council of each town or city according to its needs, and are likewise certified to the County Auditor.

7. Levy—The Board of Supervisors at its regular September meeting in each year proceeds to order the collection of all the various taxes which have been properly certified to the Auditor, together with the taxes it determines upon for county purposes. With the rates thus fixed the Auditor makes up the tax lists and delivers them to the County Treasurer on or before the 31st day of December.

8. Collection—It is the duty of every person subject to taxation to attend at the office of the Treasurer at some time between the first Monday in January and the first Monday in March and pay his taxes in full; or he may at his option pay one half thereof at any time before the first Monday of March and the other half before the first of September without extra charge or penalty.

If the taxes are not paid as above stated they are said to be delinquent, and a penalty of one per cent per month is thereafter added.

9. Tax Sale of Lands—On the first Monday in December of each year the Treasurer after due notice offers at public sale all lands, town lots, and other real estate on which any taxes remain delinquent.

10. Redemption—A person having real estate which has been sold for taxes may redeem the same at any time within three years by paying to the Auditor the amount for which it was sold with a penalty of ten per cent and accumulated interest. If not so redeemed, the purchaser

after due notice to the owner may apply to the Treasurer and receive a deed. If the proceedings have been regular, the original owner loses all title to the property conveyed by such deed.

11. Sale of Personal Property—The Treasurer may also seize and sell the personal property of the delinquent taxpayer to enforce payment of taxes; but where there is real estate from which the collection can be made other remedies are not ordinarily employed.

12. Taxation of Railroads—All railroad property in the State is assessed by the Executive Council. This valuation is made at an average sum per mile of road, and depends upon the earnings of the several corporations and all other matters necessary to enable the council to make a just and equitable assessment.

INDEX

TO IOWA SUPPLEMENT.

[For General Index to the book, see page 287.]

	PAGE		PAGE
Adjournment of General Assembly.....	14	Contracts for schools.....	111
Adjutant-General.....	76	Constitution, development of.	39
Administration of justice.....	84	as an outline.....	41
Admission as a State.....	87	supreme law.....	35
Agricultural College.....	78, 91	Convention, constitutional.....	33, 34
Amendment of bill.....	14, 60	Coroner.....	101
constitution.....	33, 93	Corporations:	
Amendments adopted.....	94	banking.....	29, 89
Annual school meeting.....	110	for profit.....	87
Appeal.....	24, 80	for other purposes.....	87
Appointments to fill vacancies.....	96	how created.....	29, 88
Assessment of taxes.....	113	municipal.....	29, 88
Assessors.....	104, 106	name of.....	87
Asylums.....	78	State not a shareholder.....	29, 88
Attainder, bills of.....	10, 51	taxable.....	29, 88
Attorney-General.....	26, 73	utility of.....	87
Auditor of State.....	23, 72	Counties, number and area.....	98
County.....	99	County Attorney.....	100
Ball, excessive.....	10, 50	Clerk.....	100
right to.....	9, 49	officers.....	98
Ballot, Australian.....	56	terms of.....	101
Basis of representation.....	66	Courts:	
Bills, passage of.....	14, 60	District.....	24, 80
title of.....	17, 64	jurisdiction of.....	24, 82
when returned.....	14, 61	Justices'.....	24, 95
Board of Equalization.....	113	Superior.....	109
Health.....	76	Supreme.....	23, 79
Boundaries of Iowa.....	6, 34	jurisdiction of.....	24, 80
Bridges.....	99	Dairy commissioners.....	77
Capital of State.....	35, 97	Delinquent taxpayers.....	115
Census.....	18, 65	Directors of school district.....	110
Chancery and law.....	24, 80	Discovery of Iowa.....	36
Cities of first class.....	108	Distribution of powers.....	12, 57
second ".....	107	Districts, representative.....	19, 65
Citizenship.....	53	school.....	92, 110
Claims against county.....	99	senatorial.....	19, 65
Clerk, city.....	108	Divorce.....	17, 68
county.....	100	Duelling.....	8
of supreme court.....	81	Early settlement.....	39
Collection of taxes.....	114	Elections, contested.....	20, 68
Commerce.....	89	by general assembly.....	19, 68
Commissioner of labor.....	76	Electors, privileges of.....	11, 54
Common schools.....	112	Equalization of taxation.....	113
Conservators of the peace.....	24, 82, 100	Escheats.....	23, 91
Constables.....	104	Executive council.....	73

	PAGE		PAGE
Fire, protection against.....	107	Oath of general assembly.....	18, 64
Foreigners, rights of.....	10, 51	public office.....	34, 96
Free schools.....	113	Oil inspector.....	76
Freedom of speech.....	8, 46	Ordinances.....	107
General assembly:		Pardon.....	22, 70
duties of.....	21, 69	Penitentiaries.....	78
election.....	20, 67	Petition, right of.....	10, 51
eligibility.....	20, 68	Petty misdemeanors.....	9, 48
term of office.....	22, 70	Police.....	108
Government, nature of.....	43	Political power.....	43
Habeas corpus.....	9, 49	Printer and binder.....	77
High schools, county.....	92	Private property, seizure of.....	10, 50
High-school departments.....	92	Process, style of.....	82
Historical department.....	78	Public credit.....	27, 85
History of Iowa.....	36	education.....	90
Impeachment.....	15, 61	roads.....	99, 105
Imprisonment for debt.....	10, 50	Railroad Commissioners.....	74
Incorporated towns.....	106	Recorder.....	106
officers of.....	106	Redemption of real estate.....	114
powers of.....	107	Reformatories.....	78
Incorporation of cities.....	106	Register of births and deaths.....	100
Indebtedness of municipalities.....	34, 96	Religious liberty.....	7, 44
state.....	27, 85, 86	Reporter.....	81
Independent school districts.....	111	Residence.....	54
Indictable offenses.....	48	Rights, natural.....	43
Judges. <i>See</i> Courts.		political.....	7, 43
Judicial Department.....	23, 79	Riots.....	107
districts.....	25	Road supervisors.....	105
Jurisdiction, defined.....	95	Sale of personal property for	
Jury:		taxes.....	115
Grand.....	26, 83	Salaries of county officers.....	102
right to trial by.....	8, 47	judicial ".....	83
Trial.....	83	State ".....	74
Justice of the Peace.....	34, 104	Schedule.....	85, 97
Laws, special, prohibited.....	17, 64	School funds.....	31, 86, 90
take effect, when.....	17, 63	distribution of.....	83, 91
Lease of agricultural land.....	10, 52	School year.....	112
Legislative powers of nation.....	40	Seal.....	23, 72
State.....	40	Search-warrants.....	8, 46
Levy of taxes.....	114	Secretary of State.....	23, 72
Lieutenant-Governor.....	20, 22, 67	Sheriff.....	100
president of senate.....	22, 71	Slavery.....	10, 51
Liquor, manufacture and sale of.....	10	Solicitor.....	108
Lotteries.....	17, 63	Special charters.....	109
Majority, rule of.....	44	State constitutions, differences in.....	38
Marriage license.....	100	State librarian.....	77
Marshal.....	107, 108	State University.....	78, 91
Mayor.....	106, 108	Statutes.....	42
Military subordinate to civil		Studies in common schools.....	113
power.....	9, 49	Succession in office.....	22, 71
Militia.....	9, 26, 84	Suffrage, importance of.....	53
Mine inspectors.....	76	qualifications for.....	11, 53
Monarchy <i>versus</i> Republic.....	44	partial.....	53
Municipal corporations, classes of.....	106	Supervisors.....	98
Municipal elections.....	109	duties of board.....	98
National Guard.....	84	meetings.....	99
New counties, area of.....	34, 95	Superintendent of Public Instruction.....	73
Non-elective State officers.....	75	Support of schools.....	112
Normal school.....	78, 92	Supremacy of nation.....	41
		State.....	41
		Surveyor.....	107
		Taxes.....	113
		Taxation of railroads.....	115

	PAGE		PAGE
Tax sale of lands	114	University fund.....	27, 31
Temporary school fund.....	91, 112	Vacancies in office.....	35, 96
Terms of office.....	74	Variety of local government....	38
Tie vote.	68	Veto.....	14, 60
Township clerk.....	104	Voting, manner of.....	12, 55
officers.....	103		
trustees.....	104	War debts.....	28, 86
Townships, civil... ..	103	Wardens.....	77
congressional... ..	103	Wards.....	107
Transportation.....	89	Water-works.....	107
Treason.....	9, 49	Women eligible to office	102
Treasurer of State.....	23, 73		
Trial by jury.....	8, 47		

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